

Edgar Filing: HEMISPHERX BIOPHARMA INC - Form 8-K

HEMISPHERX BIOPHARMA INC

Form 8-K

April 12, 2006

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of  
the Securities Exchange Act of 1934

Date of report (Date of earliest event reported):  
April 12, 2006

HEMISPHERX BIOPHARMA, INC.  
(Exact Name of Registrant as Specified in Charter)

Delaware (State or Other Jurisdiction of Incorporation)	0-27072 (Commission File Number)	52-0845822 (IRS Employer Identification No.)
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1617 JFK Boulevard, Philadelphia, Pennsylvania, 19103  
(Address of Principal Executive Offices, including Zip Code)

Registrant's telephone number, including area code: (215) 988-0080

Not Applicable  
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to  
simultaneously satisfy the filing obligation of the registrant under any of the  
following provisions (see General Instruction A.2. below):

- ] Written communications pursuant to Rule 425 under the Securities Act (17  
CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR  
240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the  
Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the  
Exchange Act (17 CFR 240.13e-4(c))

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Item 1.01. Entry into a Material Definitive Agreement.  
Item 3.02. Unregistered Sales of Equity Securities

On April 12, 2006, Hemispherx Biopharma, Inc. (the "Company") entered into a  
Common Stock Purchase Agreement ("Purchase Agreement") with Fusion Capital Fund  
II, LLC, ("Fusion Capital"). Pursuant to the terms of the Purchase Agreement,  
Fusion Capital has agreed to purchase from the Company up to \$50,000,000 of the  
Company's common stock over a period of approximately twenty-five (25) months.

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Pursuant to the terms of a Registration Rights Agreement, dated as of April 12, 2006, the Company agreed to file a registration statement (the "Registration Statement") with the Securities and Exchange Commission on or before June 30, 2006 covering the shares which are issued to or may be issued to Fusion Capital under the Purchase Agreement. Once the Registration Statement has been declared effective, each trading day during the term of the Purchase Agreement the Company has the right to sell to Fusion Capital up to \$100,000 of the Company's common stock at a purchase price equal to the lower of the lowest trade price of Company's common stock on such date or the arithmetic average of the three lowest closing trade prices of the Company's common stock during the immediately preceding 12 trading day period. At the Company's option under certain conditions, Fusion Capital can be required to purchase greater amounts of common stock during a given period. In connection with entering into the Purchase Agreement, the Company issued to Fusion Capital 321,751 shares of its common stock. This offering was made pursuant to an exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended.

The Company anticipates using the proceeds from this financing for general corporate purposes.

A copy of the Common Stock Purchase Agreement is attached hereto as Exhibit 10.1, and a copy of the Registration Rights Agreement is attached hereto as Exhibit 10.2.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits:

- 10.1 Common Stock Purchase Agreement, dated April 12, 2006
- 10.2 Registration Rights Agreement, dated April 12, 2006

### Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: April 12, 2006

HEMISPHERX BIOPHARMA, INC.

/s/ William A. Carter

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William A. Carter, M.D.,  
Chief Executive Officer