

# SECURITIES AND EXCHANGE COMMISSION

## FORM 8-K

Current report filing

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### FILER

#### MARQUETTE ELECTRONICS INC

CIK: **62675** | IRS No.: **391046671** | State of Incorporation: **WI** | Fiscal Year End: **0430**  
Type: **8-K** | Act: **34** | File No.: **000-18724** | Film No.: **96620775**  
SIC: **3845** Electromedical & electrotherapeutic apparatus

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MILWAUKEE WI 53223  
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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

Current Report Pursuant to Section 13 or 15(d) of  
The Securities Act of 1934

Date of Report (Date of earliest event reported) August 22, 1996  
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Marquette Medical Systems, Inc.

-----  
(Exact name of Registrant as specified in its charter)

Wisconsin

0-18724

39-1046671

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(State or other  
jurisdiction  
of incorporation)

(Commission  
File Number)

(I.R.S. Employer  
Identification No.)

8200 West Tower Avenue, Milwaukee, Wisconsin

53223

-----  
(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code (414) 355-5000  
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Marquette Electronics, Inc.

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(Former name or former address, if changed since last report.)

ITEM 5. OTHER EVENTS

(a) In connection with the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995, Marquette Electronics, Inc. (the "Company") is hereby filing cautionary statements identifying important factors that could cause the Company's actual results to differ materially from those reflected in forward looking statements of the Company made by, or on behalf of, the Company.

(b) On August 15, 1996, at the annual meeting of shareholders, the shareholders approved the amendment of the Registrant's Amended and Restated

Articles of Incorporation to change the Registrant's name from Marquette Electronics, Inc. to Marquette Medical Systems, Inc. and to authorize 30,000,000 shares of Preferred Stock, without par value, issuable in series.

(c) On August 15, 1996, at the annual meeting of shareholders, the shareholders approved an amendment to the Registrant's Stock Option Plan for Employees of Marquette Electronics, Inc. increasing the number of shares of Class A Common Stock issuable thereunder from 2,500,000 shares to 3,500,000 shares.

ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS.

(a) Financial Statements

None

(b) Proforma Financial Statements

None

(c) Exhibits

99.1 Cautionary Statement for the Purposes of the "Safe Harbor" Provisions of the Private Securities Litigation Reform Act of 1995.

99.2 Articles of Amendment to the Amended and Restated Articles of Incorporation of Marquette Electronics, Inc.

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

MARQUETTE MEDICAL SYSTEMS, INC.  
(Registrant)

August 22, 1996

By: /s/ Timothy C. Mickelson

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(Date)

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Timothy C. Mickelson  
President

Cautionary Statement for the Purposes of the "Safe Harbor" Provisions of the Private Securities Litigation Reform Act of 1995

Marquette Medical Systems, Inc. (the "Company") desires to take advantage of the new "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995 (the "Reform Act") and is filing this Form 8-K in order to do so. Information provided by the Company from time to time may contain certain "forward looking" information, as that term is defined in the Reform Act and in releases made by the Securities and Exchange Commission (the "SEC"). The following cautionary statements are being made pursuant to the provisions of the Reform Act. The Company cautions that forward looking statements or projections that may be made orally or in writing are made subject to uncertainties. The accuracy of such forward looking statements are not guarantees of and may be affected by general economic conditions, the impact of competitive products, services and pricing, and demand and market acceptance risks of current and new products and services, potential risks. Uncertainties and risks that the Company believes could cause actual financial results of the Company to differ materially from those in or implied by the forward looking statements include, but are not limited to, the following:

(a) Changes in environmental laws applicable to the Company's businesses and facilities may increase costs of doing business, including increased permitting, construction and administrative costs.

(b) Damage to the Company's facilities or equipment that cannot be quickly rebuilt or replaced could hinder or prevent the Company from manufacturing its products.

(c) Changes in the amount, type and cost of the financing which is currently available to the Company could have a material adverse effect on the financial results and operations of the Company.

(d) The Company depends on the continuing services of its current management. The loss or retirement of one or more of its key executives could have a material adverse effect on the financial results and operations of the Company if suitable replacements cannot be retained. The Company anticipates that as its operations increase in size and scope, additional qualified personnel will be required. There is no assurance that the Company will be successful in attracting and retaining such qualified employees.

(e) Many of the Company's products are employed during the course of treatment of patients who are severely ill. From time to time, patients on whom the Company's products are being used will have sustained and will continue to sustain injury or death related to their medical treatment or condition. This

has and is expected to continue to lead to product liability claims against the Company. Some of those claims may be large. The Company presently carries product liability insurance coverage in amounts which the Company feels are sufficient to protect the Company. However, it is possible that this coverage could prove to be insufficient to cover claims which might be made against the Company. The availability and costs of such coverage varies from time to time and can be affected by the number and nature of the product liability claims. There is no assurance that the Company will always be able to obtain adequate product liability coverage at an acceptable price or that it will be able to obtain such insurance at all.

(f) Greater than anticipated costs and delays in connection with the development, introduction and market acceptance of the Company's products could adversely impact the Company's financial results and operations.

(g) Delays or other difficulties in the development or introduction of products by any of the Company's strategic partners or by companies participating in joint development could negatively impact or delay the shipment by the Company of products associated with such programs.

(h) A significant portion of the Company's revenue is from sales of products outside the United States. The Company's financial results could be adversely affected by such factors as changes in foreign currency exchange rates, trade protection measures, policies with respect to currency and fiscal controls, longer accounts receivable collection patterns, changes in regional worldwide economic or political conditions, import and other charges or taxes, unstable governments and legal systems, nationalizations and intergovernmental disputes.

(i) Increased competition for the Company's products in the United States and abroad, including intensification of price competition, advances in technology, the entry of new competitors and the introduction of new products by new and existing competitors, could result in lower selling prices of the Company's products. There can be no assurance that the Company will be able to offset such downward price pressure through corresponding cost reductions.

(j) The medical device industry is characterized by rapidly evolving technology and innovative products. Competitors could succeed in developing technologies and products that are more effective than those currently produced by the Company or that would render some of the Company's products obsolete or non-competitive.

(k) The lead times for the purchase of the components utilized in the production of the Company's products could increase, resulting in a loss or delay of orders.

(l) Increased costs for certain components utilized in the production of the Company's products could adversely impact the Company's financial results.

(m) Contracts which are with the federal government or state or local

governments and are funded on a periodic basis periodically face funding constraints or are contingent upon approval of continued funding. In the event that such funding is not approved, these contracts are subject to cancellation.

(n) Increasing cost consciousness of health care providers and the emphasis on managed care and control of costs may in the future lead to a reduction in the average selling price for some of the Company's products which could adversely affect the Company's gross margin.

(o) The Food and Drug Administration regulates the development, testing, manufacturing, packaging, distribution and marketing in the United States of most of the products manufactured and sold by the Company. Certain states also regulate the manufacture of medical devices. The medical device amendments of 1976 to the Federal Food, Drug and Cosmetic Act, as well as subsequent amendments to that Act, require product clearances by the FDA as to newly-introduced medical devices, such clearance procedures being time consuming and costly. Difficulties with which the Company may encounter during the clearance process may add to the delays and costs of introducing products and could require significant changes to developed products or, perhaps, abandonment of a product that has been developed through the expenditure of considerable time and expense.

(p) Sales of medical devices outside of the United States are subject to foreign regulatory requirements that vary widely from country to country. The time required to obtain clearance to sell medical devices in foreign countries may be longer or shorter than that required for FDA clearance. The European union has recently developed a new approach to the regulation of medical products that may significantly change the situation in those countries. The receipt or denial of FDA clearance for a particular product may affect the receipt or denial of regulatory clearance for that product in certain other countries.

(q) Changes in the law or new interpretations of existing laws may have a significant effect on the definition of permissible or impermissible activities, the relative costs associated with doing business and the amount of reimbursement by both government and third party payers. In addition, economic forces, regulatory influences and political initiatives are subjecting the health care industry to fundamental changes. Health care reform proposals have been formulated by the current administration and by members of

Congress. Federal, state and local government representatives are likely to continue to review and assess alternative health care delivery systems and payment methods and ongoing public debate of these issues can be expected. There can be no assurance that any such efforts or reforms will not have an adverse affect on the business, results of operations or financial condition of the Company.

(r) In January, 1996, the Company acquired all of the outstanding shares of stock of E for M Corporation. The Company believes that the acquisition will provide an opportunity for cost savings through consolidation of facilities and

operations and for revenue and earnings growth rates greater than those possible for either company alone. The achievement of these goals, however, is dependent upon the successful integration of the two companies that have previously operated independently. The successful integration of the operations of the companies will require the dedication of substantial management resources. There can be no assurance that difficulties encountered in integrating the operations of the companies will be overcome or that the goals and benefits expected from a successful integration will be realized. Difficulties encountered in connection with the integration could have an adverse effect on the business, results of operations or financial condition of the Company going forward.

ARTICLES OF AMENDMENT TO  
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AMENDED AND RESTATED ARTICLES OF INCORPORATION OF  
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MARQUETTE ELECTRONICS, INC.  
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I. The name of the Corporation is Marquette Electronics, Inc.

II. The text of each amendment adopted is as follows:

(a) Article 1 is amended by deleting Article 1 in its entirety and inserting in lieu thereof a new Article 1, as follows:

Article 1. The name of the Corporation shall be Marquette Medical Systems, Inc.

(b) Articles 4 and 5 are amended by deleting Articles 4 and 5 in their entirety and inserting in lieu thereof, new Articles 4 and 5 as follows:

Article 4. The total number of shares of all classes which it shall have authority to issue is One Hundred Ten Million (110,000,000) shares consisting of and designated as Thirty Million (30,000,000) Class A Common Shares, Ten (\$.10) cents par value, Fifty Million (50,000,000) Class C Common Shares, One (\$.01) cent par value, and Thirty Million (30,000,000) Preferred Shares, without par value.

Article 5. The preferences, limitations and relative rights of each class of shares are:

(a) Class A Common Shares and Class C Common Shares:  
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(1) Dividends  
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Dividends payable in cash may be declared on the Class A Common Shares without the declaration of any dividend on the Class C Common Shares, but no such dividend may be declared on the Class C Common Shares unless a dividend payable at the same time and in an amount one hundred (100) times as great per share is concurrently declared on the Class A Common Shares then outstanding.

(2) Liquidation Rights

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(i) In the event of any liquidation, dissolution or winding up of the corporation, whether voluntary or involuntary, the holders of all of the Common Shares then

outstanding shall be entitled to be paid out of the assets of the corporation available for distribution to its shareholders, whether such assets are capital surplus or earnings, based on the number of Common Shares held by each holder, provided that the amount distributed with respect to each Class A Common Share shall be one hundred (100) times as great as the amount distributed with respect to each Class C Common Share.

(ii) A consolidation or merger of the corporation with or into any other corporation or corporations shall not be deemed to be liquidation, dissolution or winding up of the corporation as those terms are used in this Paragraph (2).

(3) Reorganizations  
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In the event of a consolidation or merger of the corporation with or into any other corporation or any other form of reorganization (other than a sale of assets) in which the corporation is not the surviving entity, the amount distributable with respect to or the number of shares or other securities of the surviving entity or other consideration payable or distributable with respect to each Class A Common Share shall be one hundred (100) times as great as the amount distributed or paid with respect to each Class C Common Share.

(4) Voting Rights  
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(A) Except as otherwise expressly provided herein, each holder of any of the Common Shares shall be entitled to one vote for each share thereof held and except as required by the statutes of the State of Wisconsin, the holders of Class A Common Shares and Class C Common Shares shall vote together and not as separate classes.

(B) The voting requirements of Subsections 180.1003(3), 180.1103(3), 180.1202(3), 180.1402(3) and 180.1404(2) of the Wisconsin Business Corporation Law shall apply and govern the shareholder vote required on a proposal concerning a subject covered by Subsection 180.1003(3), 180.1103(3), 180.1202(3), 180.1402(3) and 180.1404(2).

(C) Inapplicability of Wisconsin Business Corporation Law  
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Section 180.1131  
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The voting rights of the respective classes of shareholders of this corporation otherwise entitled to vote hereunder and, the manner in which such voting rights may be exercised shall not be governed by Wisconsin

Business Corporation Law Section 180.1131 notwithstanding that the subject matter to be voted upon might otherwise be subject thereto.

(5) Right of First Refusal -- Class C Common Shares  
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No holder of the Class C Common Shares may sell, encumber or transfer for value, any Class C Common Shares without first depositing the certificate(s) evidencing such shares with the Corporation, duly endorsed for transfer, and simultaneously notifying the Corporation, in writing, of the proposed transaction including the identity of the transferee and the price or other consideration to be paid. Within thirty (30) days following such deposit and notification, the Corporation may purchase such Class C Common Shares by paying to the holder of such shares the lower of the price offered by the proposed transferee, or one (1c) cent per share by delivery of the purchase price to the holder of such shares, failing which the shares evidenced by the certificate(s) so deposited may be sold in accordance with the proposed transaction. The Corporation shall not be obliged to accept, transfer or to re-register certificates evidencing any Class C Common Shares without an affidavit of the transferor and transferee or other evidence to the effect that such transfer is without value. A transfer for value, for purposes of this paragraph, shall include a transfer by any person which is part of a series of transfers or transactions in which the transferee, or a party or entity related to, or affiliated with, the transferee provides value, directly or indirectly, to the transferor or a person or entity related to, or affiliated with, the transferor.

(b) Preferred Shares  
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(1) The Preferred Shares may be issued from time to time in one or more series. The Board of Directors is hereby authorized, by filing an Articles of Amendment to the Corporation's Articles of Incorporation, without vote of shareholders and in accordance with Section 180.0602 of the Wisconsin Business Corporation Law (a "Preferred Shares Amendment"), to fix or alter from time to time, the designation, powers, preferences and rights of the shares of each such series, and the qualifications, limitations or restrictions thereof so far as not inconsistent with the provisions of this Article 5 and to the full extent now or hereafter permitted by the laws of the State of Wisconsin, including the following:

(A) The distinctive designation of such series and the number of shares which shall constitute such series,

which number may be increased (except where otherwise provided by the Board of Directors in creating such series) or decreased (but not below the number of shares thereof then outstanding) from time to time by like action of the Board of Directors;

(B) The annual rate or rates of dividends payable on shares of such series, whether dividends shall be cumulative and, if so, the date or dates from which dividends shall be cumulative on the shares of such series, the preferences, restrictions, limitations and conditions upon the payment of dividends, and the dates on which dividends, if declared, shall be payable;

(C) Whether shares of such series shall be redeemable and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(D) The rights of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of the corporation, and the relative rights of priority, if any, of payment of shares of such series;

(E) Whether shares of such series shall have a purchase, retirement or sinking fund for the purchase, retirement, or redemption of shares of such series and, if so, the terms and provisions thereof;

(F) Whether shares of such series shall have conversion privileges and, if so, the terms and provisions thereof, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;

(G) Whether shares of such series shall have voting rights, in addition to voting rights provided by law, and, if so, the terms and provisions thereof; and

(H) Any other preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof.

(2) The holders of the Preferred Shares of each series shall be entitled to receive dividends, when and as declared by the Board of Directors from the funds legally therefor, as they may be entitled to in accordance with the Preferred Share Amendment adopted by the Board of Directors providing for the

issuance of such series, payable on such dates as may be fixed in such

Amendment. So long as there shall be outstanding any shares of Preferred Shares of any series entitled to cumulative dividends pursuant to any such Preferred Share Amendment providing for the issue of such series, no dividend, whether in cash or property, shall be paid or declared, nor shall any distribution be made on the Common Shares (Class A or Class C), nor shall any Common Shares be purchased, redeemed or otherwise acquired for value by the Corporation (except as provided in Section 5) if at the time of making such payment, declaration, distribution, purchase, redemption or acquisition, the Corporation shall be in default with respect to any dividend payable on or obligation to maintain a purchase, retirement or sinking fund with respect to or to redeem shares of Preferred Shares of any series. The foregoing provisions of this Subsection (b)(2) shall not, however, apply to a dividend payable in Common Shares or to the acquisition of Common Shares in exchange for or through the application of the proceeds of the sale of shares of Common Shares. Subject to the foregoing and to any further limitations prescribed in accordance with the provisions of this Section (b) of this Article 5, the Board of Directors may declare, out of any funds legally available therefor, dividends upon the then outstanding Common Shares and the Preferred Shares of any series shall not be entitled to participate therein.

(3) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of the Preferred Shares of each series shall be entitled to receive, out of the assets of the Corporation available for distribution to its stockholders before any distribution of assets shall be made to the holders of the Common Shares, the amount per share, if any, fixed by the Board of Directors in the Preferred Shares Amendment, plus in each such case an amount equal to any cumulative dividends thereon to the date of final distribution to the holders of the Preferred Shares, and the holders of the Common Shares shall be entitled, to the exclusion of the holders of the Preferred Shares of any and all series to participate ratably in all the assets of the Corporation then remaining in accordance with their respective rights and preferences. If upon any liquidation, dissolution or winding up of the Corporation the assets available for distribution shall be insufficient to pay the holders of all outstanding shares of Preferred Shares the full amounts to which they shall be entitled, the holders of Preferred Shares of all series shall participate ratably in any distribution of assets according to the respective amounts which would be payable in respect of the Preferred Shares held by them upon such distribution if all amounts payable in respect of the Preferred Shares of all series were paid in full. Neither the statutory merger nor consolidation of the Corporation into or with any other

corporation, nor the statutory merger or consolidation of any other corporation into or with the Corporation, nor a sale, transfer or lease of all or any part of the assets of the Corporation, shall be deemed to be a liquidation, dissolution or winding up of the corporation within the meaning of this Subsection (3).

(4) The Corporation, at the option of the Board of Directors, may redeem the whole or any part of the Preferred Shares of any series at the price or prices and on the terms and conditions provided in the Preferred Shares Amendment adopted by the Board of Directors providing for the issue of such series.

(5) Anything herein or in any Preferred Shares Amendment adopted by the Board of Directors providing for the issue of any series of Preferred Shares contained to the contrary notwithstanding, the rights of the holders of all classes of stock of the Corporation in respect of dividends and purchase, retirement or sinking funds, if any, shall at all times be subject to the power of the Board of Directors from time to time to set aside such reserves and to make such other provisions, if any, as the Board of Directors shall deem to be necessary or advisable for working capital, for expansion of the Corporation's business (including the acquisition of real and personal property for the purpose) and for any other purpose of the Corporation.

(6) Except as otherwise provided by the statutes of the State of Wisconsin or by the Preferred Shares Amendment adopted by the Board of Directors providing for the issue of any series of Preferred Shares, the holders of the Preferred Shares shall have no right to vote. The holders of the Preferred Shares shall not be entitled to receive notice of any meeting of shareholders at which they are not entitled to vote or consent.

(7) Except as otherwise provided by the statutes of the State of Wisconsin or by the Preferred Shares Amendment adopted by the Board of Directors providing for the issue of any series of Preferred Shares, the vote of the holders of all or any portion of the Preferred Shares, as a class, shall not be required for any action whatsoever to be taken or authorized by the shareholders of the Corporation, including any amendment of the Articles of Incorporation.

(c) Waiver of Preemptive Rights  
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No holder of any of the shares of this Corporation shall be entitled, as of right, to purchase or subscribe for any unissued stock of any class, or any additional shares of any class to be issued by reason of any increase of the authorized

shares of the Corporation of any class, or bonds, certificates of indebtedness, debentures or other securities convertible into shares of the Corporation, or carrying any right to purchase any stock of any class and any unissued shares, or such additional authorized issue of any shares or other securities convertible into shares or carrying any rights to purchase such shares may be issued and disposed of, pursuant to resolutions of the Board of Directors, to such persons, firms, corporations or associations and upon such other terms as may be deemed advisable by the Board of Directors in the exercise of its discretion.

III. Each of the amendments was adopted on the 15th day of August, 1996, in accordance with Section 180.1003 of the Wisconsin Business Corporation Law.

Executed in duplicate this 15th day of August, 1996.

/s/ Timothy C. Mickelson

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Timothy C. Mickelson, President

This document was drafted by  
Melvin S. Newman