

SECURITIES AND EXCHANGE COMMISSION

FORM 10-K/A

Annual report pursuant to section 13 and 15(d) [amend]

Filing Date: **2012-09-04** | Period of Report: **2011-12-31**  
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FILER

**BioDrain Medical, Inc.**

CIK: **1446159** | IRS No.: **331007393** | State of Incorporation: **MN** | Fiscal Year End: **1231**  
Type: **10-K/A** | Act: **34** | File No.: **000-54361** | Film No.: **121070867**  
SIC: **3842** Orthopedic, prosthetic & surgical appliances & supplies

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2060 CENTRE POINTE  
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MENDOTA HEIGHTS MN  
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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-K/A  
(Amendment No. 2)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2011

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Commission file number: **333-155299**

**BIODRAIN MEDICAL, INC.**

(Exact name of registrant as specified in its charter)

**Minnesota**

(State or other jurisdiction of  
incorporation or organization)

**33-1007393**

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

**2915 Commers Drive, Suite 900**

**Eagan, Minnesota**

(Address of principal executive offices)

**55121**

(Zip Code)

Registrant's telephone number, including area code: **(651) 389-4800**

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Common Stock, One Cent (\$0.01) Par Value Per Share	None

Securities registered pursuant to Section 12(g) of the Act: None.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the issuer (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of June 30, 2011, no market price existed for the voting and non-voting common equity held by non-affiliates of the registrant. There were 97,563,012 shares of the registrant’s common stock outstanding as of September 4, 2012.

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**DOCUMENTS INCORPORATED BY REFERENCE**

None.

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## EXPLANATORY NOTE

*On April 16, 2012, we filed our Annual Report on Form 10-K for the year ended December 31, 2011 (the "Original Filing"), with the Securities and Exchange Commission (the "SEC"). The Original Filing intended to incorporate Part III of Form 10-K by reference to the Company's definitive proxy statement (to be subsequently filed). On 5/2/2012 we filed Amendment No. 1 ("First Amendment") on Form 10-K/A. We are filing Amendment 2 ("this Filing"), which amends and restates items identified below with respect to the Original Filing and the First Amendment, to provide corrections for inadvertent errors in the sections identified below.*

*This Form 10-K/A only amends information in Part III, Item 11 (Executive Compensation). Part IV, Item 15 is also included to indicate that new certifications are being filed as described below. All other items as presented in the Original Filing and the First Amendment are unchanged. Except for the foregoing amended and restated information, this Amendment does not amend, update or change any other information presented in the Original Filing or the First Amendment.*

*In addition, as required by Rule 12b-15 of the Securities Exchange Act of 1934, this Form 10-K/A contains new certifications by our principal executive officer and principal financial and accounting officer, filed as an exhibit hereto.*

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## PART III

### *Item 11. Executive Compensation*

#### EXECUTIVE COMPENSATION

##### Overview

This section describes the material elements of the compensation awarded to, earned by or paid to our Chief Executive Officer and the two most highly compensated executive officers as determined in accordance with SEC rules, collectively referred to as the “Named Executive Officers.”

##### Executive Compensation Components for Fiscal 2011

Base salary is an important element of our executive compensation program as it provides executives with a fixed, regular, non-contingent earnings stream to support annual living and other expenses. As a component of total compensation, we generally set base salaries at levels believed to attract and retain an experienced management team that will successfully grow our business and create shareholder value. We also utilize base salaries to reward individual performance and contributions to our overall business objectives, but seek to do so in a manner that does not detract from the executives’ incentive to realize additional compensation through our stock options and restricted stock awards.

The Compensation Committee reviews the Chief Executive Officer’s salary at least annually. The Compensation Committee may recommend adjustments to the Chief Executive Officer’s base salary based upon the Compensation Committee’s review of his current base salary, incentive cash compensation and equity-based compensation, as well as his performance and comparative market data. The Compensation Committee also reviews other executives’ salaries throughout the year, with input from the Chief Executive Officer. The Compensation Committee may recommend adjustments to other executives’ base salary based upon the Chief Executive Officer’s recommendation and the reviewed executives’ responsibilities, experience and performance, as well as comparative market data.

In utilizing comparative data, the Compensation Committee seeks to recommend salaries for each executive at a level that is appropriate after giving consideration to experience for the relevant position and the executive’s performance. The Compensation Committee reviews performance for both our Company (based upon achievement of strategic initiatives) and each individual executive. Based upon these factors, the Compensation Committee may recommend adjustments to base salaries to better align individual compensation with comparative market compensation, to provide merit-based increases based upon individual or company achievement, or to account for changes in roles and responsibilities.

Our employment agreement, dated October 4, 2006, with Kevin R. Davidson, President and Chief Executive Officer, provided that his initial annual base salary would be \$150,000 and that his base salary for subsequent years is to be determined by the Board. We offered this amount as part of a package of compensation for Mr. Davidson sufficient to induce him to join our Company. The compensation package for Mr. Davidson was designed to provide annual cash compensation, combined with the equity compensation described below, sufficient to induce him to join the Company and continue to incentivize him to create revenue growth and shareholder value. Based upon the recommendation of the Compensation Committee, the Board approved an increase to Mr. Davidson’s base salary rate from \$160,000 to \$170,000 for calendar 2009, which remains his current salary.

##### *Stock Option and Other Equity Awards*

Consistent with our compensation philosophies related to performance-based compensation, long-term shareholder value creation and alignment of executive interests with those of shareholders, we make periodic grants of long-term compensation in the form of stock options or restricted stock to our executive officers, directors and others in the organization.

Stock options provide executive officers with the opportunity to purchase common stock at a price fixed on the grant date regardless of future market price. A stock option becomes valuable only if the common stock price increases above the option exercise price and the holder of the option remains employed during the period required for the option shares to vest. This provides an incentive for an option holder to remain employed by us. In addition, stock options link a significant portion of an employee’s compensation to shareholders’ interests by providing an incentive to achieve corporate goals and increase shareholder value. Under our 2008 Equity Incentive Plan (the “2008 Plan”), we may also make grants of restricted stock awards, restricted stock units, performance share awards,

performance unit awards and stock appreciation rights to officers and other employees. We adopted the 2008 Plan to give us flexibility in the types of awards that we could grant to our executive officers and other employees.

*Limited Perquisites; Other Benefits*

We intend to provide our employees with a full complement of employee benefits, including health and dental insurance, short term and long term disability insurance, life insurance and a 401(k) plan but have currently only provided a health insurance plan due to limited funding. As our business grows we will look to implement the balance of the benefit plans that will be competitive with other companies in our industry and within our geographical area.



## Potential Payments Upon Termination or Change of Control

Most of our stock option agreements provide for an acceleration of vesting in the event of a change in control as defined in the agreements. Additionally, the restricted stock agreements that were awarded to management and directors in 2009 and 2010 also provide for an acceleration of vesting in the event there is a change in control as defined in the 2008 Plan.

Under the employment agreements with Mr. Davidson and Mr. Ruwe they will be entitled to severance pay equal to twelve months pay in the event their employment is terminated as a result of a "Change in Control," defined as a change in control of more than 40% of the Company's common stock.

## Summary Compensation Table for Fiscal 2011 and 2010

The following table provides information regarding the compensation earned during the fiscal years ended December 31, 2011 and December 31, 2010 by each of the Named Executive Officers:

Name and Principal Position	Year	Salary	Bonus	Stock Awards	(3) Option Awards	Non-Equity Incentive Plan Compensation	Non-Qualified Deferred Compensation Earnings	Total Compensation
<b>Kevin R. Davidson</b>	<b>2011</b>	<b>\$ 177,083</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 96,885</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 273,968</b>
<b>Former President, CEO, CFO (1)</b>	<b>2010</b>	<b>\$ 170,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 61,126</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 231,126</b>
<b>Chad A. Ruwe (2)</b>	<b>2011</b>	<b>\$ 129,375</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 94,120</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 223,495</b>
<b>Former COO</b>	<b>2010</b>	<b>\$ 135,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 40,591</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 175,591</b>

(1) Mr. Davidson served as our President and Chief Executive Officer from 2006 through April 22, 2012 and our Chief Financial Officer from January 2009 through April 22, 2012.

(2) Mr. Ruwe served as our Chief Operating Officer from 2009 through December 7, 2011.

Represents the actual compensation cost recognized during 2011 as determined pursuant to FASB ASC 718 – Stock

(3) Compensation utilizing the assumptions discussed in Note 3, "Stock Options and Warrants," in the notes to financial statements included in the Form 10-K filed on April 16, 2012.

## Outstanding Equity Awards at Fiscal Year-end for Fiscal 2011

The following table sets forth certain information regarding outstanding equity awards held by the Named Executive Officers as of December 31, 2011:

	Grant Date	Number of Securities Underlying Options Exercisable	Option Awards			Stock Awards	
			Number of Securities Underlying Options Unexercisable	Option Exercise Price	Option Expiration Date	Number of Shares or Units of Stock that have not Vested	Market Value of Shares of Units of Stock that Have not Vested
<b>Kevin R. Davidson</b>	<b>6/5/2008</b>	<b>543,292</b>		<b>\$ 0.01</b>	<b>6/5/2018</b>		
<b>(1)</b>	<b>6/11/2008</b>		<b>80,000</b>	<b>\$ 0.35</b>	<b>6/11/2013</b>		
	<b>11/16/2010</b>	<b>800,000</b>		<b>\$ 0.15</b>	<b>11/15/2020</b>		
	<b>8/1/2011</b>	<b>666,667</b>		<b>\$ 0.01</b>	<b>7/31/2021</b>		
<b>Chad A. Ruwe</b>	<b>6/16/2008</b>	<b>200,000</b>	<b>50,000</b>	<b>\$ 0.35</b>	<b>6/16/2013</b>		
<b>(2)</b>	<b>11/16/2010</b>	<b>700,000</b>		<b>\$ 0.15</b>	<b>11/15/2020</b>		
	<b>6/14/2011</b>	<b>200,000</b>		<b>\$ 0.01</b>	<b>6/13/2021</b>		
	<b>8/1/2011</b>	<b>500,000</b>		<b>\$ 0.01</b>	<b>6/13/2021</b>		

(1) Mr. Davidson left the Company, as CEO, President and CFO, April. 24, 2012; his stock options that were not vested upon his exit date are cancelled and the options that were vested upon his exit date are exercisable for twelve months thereafter.

(2) Mr. Ruwe left the Company, as COO, December 7, 2011; his stock options that were not vested upon his exit date are cancelled and the options that were vested upon his exit date are exercisable for twelve months thereafter.

## Employment Contracts and Separation Agreements Entered Into in 2012

**Employment Agreement With CEO.** On August 13, 2012, the Company entered into an employment agreement with Joshua Kornberg, who has served as Chief Executive Officer since July 22, 2012 and who served as Interim Chief Executive Officer from April 24, 2012 to July 21, 2012. The terms of Mr. Kornberg's Employment Agreement include the following:

**Term:** The initial term commenced on April 24, 2012 and continues for an initial term of one year, with employment under the agreement to automatically continue for additional successive one-year periods unless either party provides at least 60 days' notice of intention not to renew the agreement.

**Annualized Base Salary:** Mr. Kornberg's annualized base salary will be \$180,000, subject to increase.

**Annual Bonus:** Mr. Kornberg will be eligible to receive an annual bonus with respect to each calendar year during the term of employment at the end of which he remains employed by the Company, based on attainment of reasonable Company and/or individual performance metrics. The target annual bonus will be 150% of Mr. Kornberg's base salary; provided that the actual amount of the annual bonus for each calendar year (prorated for 2012) will be determined based on relative level of achievement of the applicable metrics and which may be in an amount greater or less than the target annual bonus but shall not be less than 50% of the target annual bonus.

**Equity Incentive Grants:** Mr. Kornberg will receive annual equity incentive grants (stock options, restricted stock or other stock-based awards) with respect to each calendar year ending during the term. The target aggregate grant date fair value of each annual grant will be 200% of his base salary, subject to increase. Each annual grant will vest in the amounts of 50%, 25% and 25% on the first, second and third anniversaries of the grant date, respectively. In addition, in order to induce him to accept employment, on the date of the agreement, the Company granted Mr. Kornberg 6 million shares of 10 year non-qualified stock options at an exercise price of \$.08 per share of common stock, which shares were fully vested on the date of grant.

**Other Benefits.** Mr. Kornberg will be eligible to continue to participate in or receive benefits under all of the Company's executive benefit plans currently in effect, or substantially equivalent plans or arrangements. If he does not elect to participate in the Company's health insurance program, the Company will reimburse him for the premiums for medical and dental insurance for himself, his spouse and his eligible dependents. The Company will also provide supplemental payments to cover the cost of premiums to maintain a commercially reasonable 10-year term life insurance policy of his choosing providing a death benefit of \$1 million dollars.

**Compensation Upon Termination:** If Mr. Kornberg's employment with the Company is terminated for any reason, the Company shall pay to him (or to his authorized representative or estate) any base salary earned through the date of termination; if the termination occurs following the end of a given calendar year, but prior to payment of the annual bonus with respect to such year, the annual bonus payable for such prior calendar year; if applicable, the pro-rata bonus for the year during which the termination occurs; unpaid expense reimbursements and, if applicable, unused accrued vacation; and any vested benefits under any applicable benefit plan.

If Mr. Kornberg's employment is terminated by the Company without cause or he terminates his employment for good reason, then the Company shall pay him his accrued benefits. In addition, subject to Mr. Kornberg signing a full and final release, the Company shall pay him an amount equal to two times the sum of his base salary and his target annual bonus, to be paid out in a cash lump sum payment within 60 days. All stock options and other stock-based awards held by Mr. Kornberg and all yet unvested portions thereof shall immediately and fully accelerate and vest and become exercisable or nonforfeitable as of the date of termination; if the annual equity grant had not been made with respect to the year in which the termination occurs, the Company will grant to him such number of shares of common stock with an aggregate fair market value on the date of termination equal to 200% of his base salary; and will provide health insurance coverage for 18 months as provided in the agreement.

"Cause" is defined to mean: continued non-compliance with lawful, reasonable and good faith written directives from the Board; material misconduct in connection with the performance of his duties, including misappropriation of funds or property of the Company (other than occasional, customary and de minimis use of Company property for personal purposes); conviction for any felony or a misdemeanor involving moral turpitude or fraud, which results or is reasonably expected to result in injury or reputational harm to the Company or his being unable to satisfactorily perform his duties to the Company; non-performance of his duties to the Company (with exceptions for illness or disability); or a material breach of his material obligations under the agreement and/or fiduciary duties owed to the Company; subject to a 30 day period after notice to cure several of the above occurrences.

In the event of a change in control, all stock options and other stock-based awards held by Mr. Kornberg and all yet unvested portions thereof shall immediately and fully accelerate and vest and become fully exercisable or nonforfeitable as of immediately prior

to the closing or occurrence (as applicable) of the event constituting the change in control; and if, in connection with or within 18 months after a change in control, his employment is terminated by the Company without cause or he terminates his employment for any reason, subject to the signing of a release, the Company shall pay Mr. Kornberg a lump sum in cash in an amount equal to three times the sum of (x) his base salary and (y) his target annual bonus, to be paid out in a cash lump sum payment within 60 days. If the annual equity grant had not been made with respect to the year in which the termination occurs, the Company will grant to him such number of shares of common stock with an aggregate fair market value on the date of termination equal to 200% of his base salary; and will provide health insurance coverage for 18 months as provided in the agreement

“Good reason” is defined to mean that Mr. Kornberg has complied with following a specified process of providing notice to the Company of the occurrence of any of the following conditions and such condition continues after the specified periods: a material diminution in Mr. Kornberg’s responsibilities, authority or duties (including if the Company hires a new Chief Executive Officer; a material diminution in his base salary, bonus levels or targeted equity grant; a material change in the geographic location at which he provides services to the Company (including, without limitation, requiring Mr. Kornberg to relocate to the Company’s Minnesota offices or other successor Company location); or material breach of the agreement by the Company.

In the event of a change in control, all stock options and other stock-based awards held by Mr. Kornberg will fully accelerate and vest and become fully exercisable or nonforfeitable as of immediately prior to the closing or occurrence of the event constituting the change in control; and if, in connection with or within 18 months after a change in control, his employment is terminated by the Company without cause or he terminates his employment for any reason, subject to the signing of a release, the Company shall pay Mr. Kornberg a lump sum in cash in an amount equal to three times the sum of his base salary and his target annual bonus, to be paid out in a cash lump sum payment within 60 days. If the annual equity grant had not been made with respect to the year in which the termination occurs, the Company will grant to him such number of shares of common stock with an aggregate fair market value on the date of termination equal to 200% of his base salary; and will provide health insurance coverage for 18 months as provided in the agreement. “Change in control” is defined to include a merger, consolidation, statutory exchange or reorganization, a sale, lease, exclusive license, or other disposition of all or substantially all of the consolidated assets of the Company and its subsidiaries, other than to an entity, more than (50%) of the combined voting power of the voting securities of which are owned by shareholders of the Company in substantially the same proportions as their ownership of the Company immediately prior to such sale; lease, license, or other disposition; any person or group (other than Dr. Sam Herschkowitz, Mr. Kornberg or their affiliates) becomes the beneficial owner of securities possessing (or convertible into or exercisable for) 30% or more of the total combined voting power of securities with respect to election of board members; or individuals who, on the date of the agreement, are incumbent directors cease for any reason to constitute at least a majority of the board; provided, that if the appointment, election (or nomination) of any new director was approved or recommended by a majority of the incumbent board, the new director will be considered as a member of the incumbent board.

Further, if it is determined that the amount of any compensation, payment or distribution by the Company to or for the benefit of Mr. Kornberg would be subject to the excise tax on parachute payments under the Internal Revenue Code of 1986, as amended (the “Code”), or any interest or penalties are incurred by Mr. Kornberg with respect to such excise tax, then he will receive additional payments as a gross-up payment to cover such payments and additional income taxes on such payments.

Non-Competition. During Mr. Kornberg’s employment with the Company and for twelve months thereafter, regardless of the reason for the termination, he will not engage in a competing business, as defined in the agreement and will not solicit any person to leave employment with the Company or solicit clients or prospective clients of the Company with whom Mr. Kornberg worked, solicited, marketed, or obtained confidential information about during Mr. Kornberg’s employment with the Company, regarding services or products that are competitive with any of the Company’s services or products.

**Employment Agreement With COO and CFO.** On August 13, 2012, the Company entered into employment agreements with David O. Johnson, who has served as Chief Operating Officer since July 1, 2012, and Bob Myers, who has who has served as Chief Financial Officer since July 1, 2012 (Messrs. Johnson and Myers are referred to as the “executives”). Under the agreements the employment of each of these individuals with the Company at-will.

The annualized base salaries of Messrs. Johnson and Myers are \$150,000 and \$125,000, respectively. Such base salaries may be adjusted by the Company but may not be reduced except in connection with a reduction imposed on substantially all employees as part of a general reduction. The executives will also each be eligible to receive an annual incentive bonus for each calendar year at the end of which he remains employed by the Company, subject to the attainment of certain objectives. Messrs. Johnson and Myers each received ten year stock options to purchase 1 million shares of common stock at \$.08 per share with each option vested immediately with respect to 700,000 shares and with the remaining 300,000 shares to vest 18 months after the date of grant.

If the Company terminates the executive’s employment without cause or if the executive terminates his employment for “good reason,” he shall be entitled to receive from Company severance pay in an amount equal to (a) before the first anniversary of the date of the agreement, three months of base salary, or (b) on or after the first anniversary of the date of the agreement, six months of base salary, in either case less applicable taxes and withholdings. In that event, he will receive a bonus payment on a pro-rata basis through the date of termination and any accrued, unused vacation pay. The severance pay, bonus payment, and other consideration are conditioned upon executive’s execution of a full and final release of liability. “Cause” is defined to mean the executive engages in willful misconduct or fails to follow the reasonable and lawful instructions of the Board, if such conduct is not cured within 30 days after notice; the executive embezzles or misappropriates assets of Company or any of its subsidiaries; the executive’s violation of his obligations in the agreement,

if such conduct is not cured within 30 days after notice; breach of any agreement between the executive and the Company or to which Company and the executive are parties, or a breach his fiduciary duty or responsibility to the Company; commission by of fraud or other willful conduct that adversely affects the business or reputation of Company; or, Company has a reasonable belief the executive engaged in some form of harassment or other improper conduct prohibited by Company policy or the law. "Good reason" is defined as (i) a material diminution in Employee's position, duties, base salary, and responsibilities; or (ii) Company's notice to Employee that his or her position will be relocated to an office which is greater than 100 miles from Employee's prior office location. In all cases of Good Reason, Employee must have given notice to Company that an alleged Good Reason event has occurred and the circumstance must remain uncorrected by Company after the expiration of (30) days after receipt by Company of such notice.

During each executive's employment with the Company and for twelve months thereafter, regardless of the reason for the termination, he will not engage in a competing business, as defined in the agreement and will not solicit any person to leave employment with the Company or solicit clients or prospective clients of the Company with whom he worked, solicited, marketed, or obtained confidential information about during his employment with the Company, regarding services or products that are competitive with any of the Company's services or products.

**Separation Agreement with Former COO.** On August 11, 2012, the Company entered into a separation agreement with Chad Ruwe, the former COO of the Company. Mr. Ruwe resigned from the Company's Board of Directors on July 24, 2012 for personal reasons. Under the agreement, the Company issued to Mr. Ruwe 1,166,667 shares of Common Stock, representing a payment of \$175,000.00 at a valuation of \$0.15 per share. The Company also agreed to amend Mr. Ruwe's warrant dated July 2, 2008 for the purchase of 571,429 shares, at an exercise price of \$.46 per share to extend the expiration date of the warrant by two years, to July 2, 2014. In addition, the Company agreed to grant to Mr. Ruwe an additional warrant to purchase 200,000 shares of Common Stock at an exercise price of \$0.15 per share, with an expiration date of June 29, 2017. Further, the Company agreed to exchange Mr. Ruwe's options for 700,000 shares of common stock at a purchase price of \$.15 for a warrant to purchase 700,000 shares of common stock at \$.15 per share with an expiration date of June 29, 2017. Mr. Ruwe and his affiliates agreed to release the Company and affiliated parties from any claims other than a breach of the separation agreement, and the parties agreed not to disparage each other.

### DIRECTOR COMPENSATION

The directors of BioDrain Medical, Inc. are not paid cash compensation for their service on the Board except for Lawrence Gadbaw, who is paid \$2,000 per month for his service as Chairman of the Board.

Beginning in 2009, the Board instituted an annual restricted stock award program for non-employee directors, except for the Chairman, under which they will be awarded 20,000 shares of restricted stock annually on each anniversary date of service on the Board. The Board further determined that Mr. McGoldrick, Mr. Reding and Dr. Morawetz would be awarded 40,000 shares, 20,000 shares and 100,000 shares of common stock, respectively, for their prior service on the Board. Mr. Gadbaw is entitled to a stock option, as of September 30 of each year that he continues to serve as Chairman of the Board, to purchase 30,000 shares of common stock for a fixed price that is determined by the Board to be the market value on the date of grant. Mr. Gadbaw was granted an option to purchase 30,000 shares of common stock at \$.50 per share on November 13, 2009. The option is immediately vested and has a term of three years. The Board modified the grant of restricted stock in 2010 to be 75,000 shares per non-employee director, except for the chairman, and the chairman received an option to purchase 85,000 shares at \$.15 per share. The option vested immediately and has a three year term.

#### Director Compensation Table for Fiscal 2011

The following table summarizes the compensation paid to each non-employee director in the fiscal year ended December 31, 2011.

Name	Fees Paid or Earned in Cash	Stock Awards	Option Awards	Total
<b>Lawrence W. Gadbaw (1)</b>	<b>\$ 24,000</b>			<b>\$ 24,000</b>
<b>Peter Morawetz</b>	\$ -			\$ -
<b>Thomas McGoldrick</b>	-			-
<b>Albert Emola</b>	-			-
<b>Andrew Reding</b>	-			-
<b>James Dauwalter</b>	-			-

(1) Mr. Gadbaw received \$2,000 per month as compensation for serving as Chairman of the Board.

***Item 15. Exhibits, Financial Statement Schedules***

Exhibits. See “Exhibit Index to Form 10-K” immediately following the signature page of this Amendment.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

BIODRAIN MEDICAL, INC.

Date: September 4, 2012

By: /s/ Joshua Kornberg  
Joshua Kornberg  
President and Chief Executive Officer



**EXHIBIT INDEX**  
**BIODRAIN MEDICAL, INC.**  
**FORM 10-K/A**

<b>Exhibit Number</b>	<b>Description</b>
3.1	Articles of Incorporation, as amended
3.2	Bylaws, as amended (7)
10.1	Employment Agreement between the Registrant and Kevin R. Davidson, dated October 4, 2006 (1)**
10.2	Confidential Separation Agreement and Release between the registrant and Lawrence W. Gadbow, dated August 13, 2008 (1)**
10.3	Stock Option Agreement between the registrant and Kevin R. Davidson, dated June 5, 2008 (1)**
10.4	Director Stock Option Agreement between the registrant and Thomas McGoldrick, dated August 22, 2006 (1)**
10.5	Director Stock Option Agreement between the registrant and Andrew P. Reding, dated November 11, 2006 (1)**
10.6	Consulting Agreement between the registrant and Marshall C. Ryan and Mid-State Stainless, Inc., dated June 2008 (1)
10.7	Patent Assignment by Marshall C. Ryan in favor of the registrant, dated June 18, 2008 (1)
10.8	Convertible Debenture between the registrant and Kevin R. Davidson, dated February 2, 2007 (1)
10.9	Convertible Debenture between the registrant and Peter L. Morawetz, dated February 2, 2007 (1)
10.10	Convertible Debenture between the registrant and Andrew P. Reding, dated February 2, 2007 (1)
10.11	Convertible Debenture between the registrant and Thomas McGoldrick, dated January 30, 2007 (1)
10.12	Convertible Debenture between the registrant and Andcor Companies, Inc., dated September 29, 2006 (1)
10.13	Convertible Debenture between the registrant and Carl Moore, dated March 1, 2007 (1)
10.14	Convertible Debenture between the registrant and Roy Moore, dated March 1, 2007 (1)
10.15	Form of Subscription Agreement (1)
10.16	Form of Registration Rights Agreement (1)
10.17	Form of Escrow Agreement (1)
10.18	Form of Warrant (1)
10.19	2008 Equity Incentive Plan (1)**
10.20	Office Lease Agreement between the registrant and Roseville Properties Management Company, as agent for Lexington Business Park, LLC (1)
10.21	Employment Agreement between the registrant and David Dauwalter, dated August 11, 2008 (2)**
10.22	Amendment No. 1 to Employment Agreement between the registrant and David Dauwalter, dated September 11, 2008 (2)**

- 10.23 Consulting Agreement by and between the registrant and Andcor Companies, Inc., dated September 15, 2008 (2)
  - 10.25 Independent Contractor Agreement between Belimed, Inc. and the registrant, dated February 2, 2009 (3)
  - 10.26 Supply Agreement between Oculus Innovative Sciences, Inc., and the registrant, dated February 20, 2009 (4)
  - 10.27 Agreement between the registrant and Peter Morawetz, dated May 15, 2009 (5)
  - 10.28 Amendment No. 1 to BioDrain Medical, Inc. 2008 Equity Incentive Plan (6)\*\*
  - 10.29 Convertible Note Purchase Agreement between the Company and SOK Partners, LLC dated March 28, 2012, including the form of Convertible Promissory Grid Note (8)
  - 10.30 Amended and Restated Note Purchase Agreement between the Company and Dr. Samuel Herschkowitz dated as of December 20, 2011, including the form of Convertible Promissory Note (issued in the amount of \$240,000) (8)
  - 14.1 Code of ethics
  - 23.1\* Consent of Independent Registered Public Accounting Firm (9)
  - 31.1\* Certification of principal executive officer required by Rule 13a-14(a)
  - 31.2\* Certification of principal financial officer required by Rule 13a-14(a)
  - 32.1\* Section 1350 Certification
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\*Filed herewith.

\*\*Compensatory Plan or arrangement required to be filed pursuant to Item 15(b) of Form 10-K.

- (1) Filed on November 12, 2008 as an exhibit to our Registration Statement on Form S-1 and incorporated herein by reference.
  - (2) Filed on January 12, 2009 as an exhibit to Amendment No. 1 to our Registration Statement on Form S-1 and incorporated herein by reference.
  - (3) Filed on April 6, 2009 as an exhibit to our Amendment No. 3 to our Registration Statement on Form S-1 and incorporated herein by reference.
  - (4) Filed on July 1, 2009 as an exhibit to our Amendment No. 5 to our Registration Statement on Form S-1 and incorporated herein by reference.
  - (5) Filed on August 12, 2009 as an exhibit to Amendment No. 7 to our Registration Statement on Form S-1 and incorporated herein by reference.
  - (6) Filed on June 15, 2011 as an exhibit to our Current Report on Form 8-K and incorporated herein by reference.
  - (7) Filed on November 23, 2011 as an exhibit to Amendment No. 1 to our Quarterly Report on Form 10-Q and incorporated herein by reference.
  - (8) Filed on April 3, 2012 as an exhibit to our Current report on Form 8-K and incorporated herein by reference.
  - (9) Filed April 16, 2012 as an exhibit to our Annual Report on Form 10-K and incorporated herein by reference.
  - (10) Filed May 2, 2012 as an exhibit to our Annual Report on Form 10-K/A and incorporated herein by reference.
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## CERTIFICATION

I, Joshua Kornberg, certify that:

1. I have reviewed this annual report on Form 10-K/A of BioDrain Medical, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15-d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: September 4, 2012

/s/ Joshua Kornberg

Joshua Kornberg  
Chief Executive Officer (Principal Executive Officer)

## CERTIFICATION

I, Bob Myers, certify that:

1. I have reviewed this annual report on Form 10-K/A of BioDrain Medical, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15-d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: September 4, 2012

/s/ Bob Myers

Bob Myers  
Chief Financial Officer (Principal Financial Officer)

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
AND PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of BioDrain Medical, Inc. (the "Company") for the year ended December 31, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Joshua Kornberg, Chief Executive Officer and, I, Bob Myers, Chief Financial Officer, of the Company, certify, pursuant to § 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. § 1350, that to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: September 4, 2012

/s/ Joshua Kornberg

Joshua Kornberg  
Chief Executive Officer and (Principal Executive Officer)

/s/Bob Myers

Bob Myers  
Chief Financial Officer and (Principal Financial Officer)

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