

ROCKWELL MEDICAL TECHNOLOGIES INC

Form 10-K/A

April 20, 2009

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-K/A  
(Amendment No. 1)**

(Mark One)

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

**For the fiscal year ended December 31, 2008**

**OR**

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

**For the transition period from to**

**Commission file number 000-23661**

**ROCKWELL MEDICAL TECHNOLOGIES, INC.**

(Exact name of registrant as specified in its charter)

Michigan

38-3317208

(State or other jurisdiction of  
incorporation or organization)

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

30142 Wixom Road  
Wixom, Michigan

48393

(Address of principal executive offices)

(Zip Code)

(248) 960-9009

(Registrant's telephone number, including area code)  
Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class:  
Common Stock, no par value

Name of each exchange on which registered:  
Nasdaq Global Market

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 registrant (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 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 the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

(Do not check if a 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

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold as of June 30, 2008 was \$90,884,500. For purposes of this computation, shares of common stock held by our executive officers, directors and common shareholders with 10% or more of the outstanding shares of common stock were excluded. Such determination should not be deemed an admission that such officers, directors and beneficial owners are, in fact, affiliates.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date. 14,132,712 common shares outstanding as of February 28, 2009.

#### **Documents Incorporated by Reference**

Portions of the Registrant's definitive Proxy Statement pertaining to the 2009 Annual Meeting of Shareholders (the Proxy Statement) to be filed pursuant to Regulation 14A are herein incorporated by reference in Part III of this Annual Report on Form 10-K.

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**Explanatory Note**

We are amending our Annual Report on Form 10-K (the Original Filing ) for the year ended December 31, 2008, which was filed with the Securities and Exchange Commission on March 16, 2009. This Amendment No. 1 is being filed to amend Item 12 ( Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters ), specifically to amend the table and add related narrative disclosure under the heading Securities Authorized for Issuance Under Equity Compensation Plans.

This Amendment No. 1 does not modify or update other disclosures in the Original Filing, and, accordingly, this Amendment No. 1 should be read in conjunction with the Original Filing.

**Table of Contents****Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

The required information will be contained in the Proxy Statement under the caption "Voting Securities and Principal Holders" and is incorporated herein by reference.

**Securities Authorized for Issuance Under Equity Compensation Plans**

The following information is provided as of December 31, 2008 with respect to our existing compensation plans, including individual compensation arrangements, under which our equity securities are authorized for issuance:

	(a)	(b)	(c)
<b>Plan Category</b>	<b>Number of securities to be issued upon exercise of outstanding options, warrants and rights</b>	<b>Weighted-average price of outstanding options and rights</b>	<b>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))</b>
Equity compensation plans approved by security holders	4,063,031	\$ 3.44	435,000
Equity compensation plans not approved by security holders	1,075,000	\$ 5.55	-0-
Total	5,138,031	\$ 3.88	435,000

In 2007 and 2008, we issued warrants to purchase Common Shares pursuant to compensation arrangements with four non-employee consultants who provide (or provided) services to us, including providing investor relations consulting services and introducing the Company to potential licensing partners and acquisition candidates and acting as a liaison to the equity investment community. These were not issued under a preexisting plan and shareholder approval for these transactions was not required or sought.

As of October 3, 2007, we entered into a consulting agreement pursuant to which we have issued warrants to acquire 135,000 Common Shares. The warrants were earned at the rate of 15,000 warrants per month of service. The first 90,000 warrants that were earned have an exercise price of \$7.00 per share and the remaining 45,000 warrants have an exercise price of \$7.50 and in each case are exercisable for cash. The warrants expire at the close of business on October 3, 2011. These warrants become exercisable on the first anniversary of the date on which they are earned and may be exercised in whole or in part at any time until their expiration. We have agreed to use reasonable commercial efforts to register the shares to be issued upon exercise of the warrants under the Securities Act of 1933.

On November 28, 2007, we entered into an agreement pursuant to which we issued warrants to acquire 80,000 Common Shares at an exercise price of \$10.00 per share, exercisable for cash at any time during the period from November 28, 2008 to November 28, 2012. The Common Shares underlying these warrants have been registered for resale by the holder under the Securities Act of 1933.

On May 28, 2008, we entered into an advisory agreement pursuant to which we issued warrants to acquire 100,000 Common Shares. The warrants were immediately earned and will become exercisable on May 28, 2009. The warrants will expire on the earlier of (i) May 28, 2012, or (ii) the termination of the agreement prior to May 28, 2009 (A) by us due to a material breach of the agreement by the consultant or (B) by the consultant. The warrants have an exercise price of \$9.00 per share and may be exercised on a cashless basis or for cash. We have agreed to use reasonable commercial efforts to register the shares to be issued upon exercise of the warrants under the Securities Act of 1933.

On September 30, 2008, we entered into an advisory agreement pursuant to which we issued warrants to acquire 60,000 Common Shares. The warrants are earned in 20,000 share increments on September 30, 2008, January 1, 2009 and July 1, 2009. To the extent earned, the warrants become exercisable on January 1, 2010 and will expire on September 30, 2012. Upon a termination of the agreement (A) by us due to a material breach of the agreement by the consultant or (B) by the consultant, any unearned warrants at the time of such termination will expire. The warrants have an exercise price of \$6.50 per share and may be exercised on a cashless basis or for cash.

In November 2008, the Company entered into an advisory agreement, as amended, pursuant to which we issued warrants to acquire a total of 700,000 Common Shares. All of the warrants were immediately earned. Warrants to purchase 300,000 Common Shares at an exercise price of \$1.99 per share will become exercisable on November 5, 2009, and will expire on the earlier of (i) November 5, 2011, or (ii) the termination of the agreement prior to November 5, 2009 (A) by us due to a material breach of the agreement by the consultant or (B) by the consultant. Warrants to purchase 400,000 Common Shares will become exercisable on November 5, 2010, and will expire on the earlier of (i) November 5, 2011, or (ii) the termination of the agreement prior to November 5, 2010 (A) by us due to a material breach of the agreement by the consultant or (B) by the consultant. One-half of these warrants have an exercise price of \$4.54, and the remainder have an exercise price of \$7.00 per share. The warrants are exercisable only for cash. We have agreed to use reasonable commercial efforts to register the shares to be issued upon exercise of the warrants under the Securities Act of 1933.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Exchange Act, the registrant has duly caused this Amendment No. 1 to Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

ROCKWELL MEDICAL TECHNOLOGIES, INC.  
(Registrant)

By: /s/ ROBERT L. CHIOINI  
Robert L. Chioini  
President and Chief Executive Officer

Date: April 20, 2009

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**EXHIBIT INDEX TO FORM 10-K/A**

The following documents are filed as part of this Amendment No. 1 on Form 10-K/A. Our Commission file number is 000-23-661.

31.1 Certification of Chief Executive Officer Pursuant to Rule 13a-14(a).

31.2 Certification of Chief Financial Officer Pursuant to Rule 13a-14(a).