PRO PHARMACEUTICALS INC
Form S-3
January 12, 2007
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As filed with the Secutities and Exchange Commission on January 12, 2007

Registration No. 333-_____

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

PRO-PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Nevada	**04-3562325**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

7 Wells Avenue

Newton, Massachusetts 02459

(617) 559-0033

(Address, including zip code, and telephone number, including area code, of principal executive offices)

David Platt, Ph.D.

President and Chief Executive Officer

Pro-Pharmaceuticals, Inc.

7 Wells Avenue

Newton, Massachusetts 02459

(617) 559-0033

(Name, address, including zip code,

and telephone number, including area code,

of agent for service)

With a copy to:

Jonathan C. Guest, Esq.

Greenberg Traurig LLP

One International Place

Boston, Massachusetts 02110

Telephone: (617) 310-6000

Telecopy: (617) 310-6001

Approximate date of commencement of proposed sale to the public: From time to time after this Registration Statement is declared effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, check the following box. ¨

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ¨

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ¨

CALCULATION OF REGISTRATION FEE

Title of Each Class	Amount to be	Proposed Maximum Offering Price per	Proposed Maximum Aggregate Offering	Amount of Registration Fee (2)

of Securities to be Registered	Registered (1)	Share (2)	Price (2)	
Common Stock, $.001 par value per share	37,087,013	$ 0.395	$ 14,649,370	$ 4,133(3)

(1) Includes an estimated 29,787,013 shares of common stock issuable upon conversion or redemption of, and as interest payments on, 7% Convertible Debentures due February 2008 (the Debentures). Pursuant to Rule 429 under the Securities Act, the number of registered shares subject to this Registration Statement includes (i) 5,150,000 shares of common stock issued or issuable pursuant to the Debentures and (ii) 2,150,000 shares of common stock estimated to be issuable upon exercise of warrants held by the selling stockholders herein and the placement agent, all of which are covered by the Registration Statement on Form S-3 (No. 333-132459) and are carried forward in this Registration Statement. Pursuant to Rule 416 under the Securities Act, this Registration Statement also covers such additional number of shares of common stock as may be issuable upon a stock split, stock dividend or similar transaction.

(2) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(c), using the average of the high and low prices of the Registrant s common stock as reported on the American Stock Exchange on January 10, 2007, which was approximately $0.395 per share. See also note 3.

(3) Includes $2,874 which was previously paid in connection with the Registration Statement for 7,300,000 shares, based on a share price $3.68, filed on Form S-3 (file no. 333-132459) and carried forward in this Registration Statement. Accordingly, after application of this credit, and based on the 29,787,013 shares being registered hereunder, an amount of $1,259 is being paid simultaneously in connection with this Registration Statement.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The prospectus contained in this Registration Statement relates to and constitutes a Post-Effective Amendment to the Registration Statement on Form S-3 (File No. 333-132459), and it is intended to be a combined prospectus referred to in Rule 429 of the Securities Act.

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The information in this prospectus is not complete and may be changed. The selling stockholders named in this prospectus may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and the selling stockholders named in this prospectus are not soliciting offers to buy these securities in any jurisdiction where the offer and sale is not permitted.

Subject to completion, dated January 12, 2007

PROSPECTUS

PRO-PHARMACEUTICALS, INC.

37,087,013 Shares of Common Stock

This prospectus relates to the offer and sale from time to time by the selling security holders identified in this prospectus, and their pledgees, assignees and successors-in-interest, of (i) up to 34,937,013 shares of our common stock issuable upon conversions or redemptions of, or as interest payments on, an $10,000,000 principal amount of our 7% Convertible Debentures due February 2008, of which $4,925,000 was outstanding as of January 1, 2007, and (ii) up to 2,150,000 shares of our common stock issuable upon the exercise of warrants. We are filing the registration statement of which this prospectus is a part to register additional shares in order to fulfill contractual obligations which we undertook at the time of the original issuance of the Debentures and warrants. This prospectus is combined with our prospectus dated March 29, 2006, as supplemented, relating to the offer and sale from time to time by the selling security holders of 7,300,000 of our shares.

The prices at which such security holders may sell the shares in this offering will be determined by the prevailing market price for the shares or in negotiated transactions. We will not receive any of the proceeds from the sale of the shares.

Our common stock is traded on the American Stock Exchange under the symbol PRW. On January 10, 2007, the last reported sale price of our common stock was $0.40 per share. We urge you to obtain current market quotations for our common stock.

Investing in our common stock involves a high degree of risk. See Risk Factors beginning on page 4.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2007.

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Our executive offices are located at 7 Wells Avenue, Newton, Massachusetts 02459. Our telephone number is (617) 559-0033, fax number is (617) 928-3450, e-mail address is squeglia@pro-pharmaceuticals.com, and our website address is

www.pro-pharmaceuticals.com. The information on our website is not incorporated by reference into this prospectus.

You should rely only on the information contained in this prospectus, including information incorporated by reference in this prospectus, or any supplement to which we have referred you. We have not authorized anyone else to provide you with different information. You should not assume that the information in this prospectus or any supplement is accurate as of any date other than the date on the front of those documents or that any document incorporated by reference is accurate as of any date other than its filing date. You should not consider this prospectus to be an offer or solicitation relating to the securities in any jurisdiction in which such an offer or solicitation relating to the securities is not authorized. Furthermore, you should not consider this prospectus to be an offer or solicitation relating to the securities if the person making the offer or solicitation is not qualified to do so, or if it is unlawful for you to receive such an offer or solicitation.

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PROSPECTUS SUMMARY

This summary highlights important features of this offering and the information included or incorporated by reference in this prospectus. This summary does not contain all of the information that you should consider before investing in our common stock. You should read this prospectus and the information and documents incorporated by reference carefully. Such documents contain important information you should consider when making your investment decision. See Incorporation of Certain Documents by Reference on page 14.

Unless the context otherwise requires, all references to we, our, our company, or the Company in this prospectus refer to Pro-Pharmaceuticals, Inc., a Nevada corporation, and its subsidiaries, and their respective predecessor entities for the applicable periods, considered as a single enterprise.

About Pro-Pharmaceuticals, Inc.

We are development-stage company engaged in research and development of carbohydrate-based therapeutic compounds. We believe our carbohydrate-based compounds offer numerous opportunities to provide advanced treatments. Our initial focus is on the target delivery of chemotherapy drugs for the treatment of cancer.

Our initial carbohydrate compound - DAVANAT® - may increase the body s tolerance to these toxic drugs by targeting delivery directly to cancerous cells and increasing the efficacy of, and thereby creating a preferable treatment to, existing oncology regimens. DAVANAT® in combination with 5-Flourouracil (5-FU), a widely used chemotherapy, has successfully completed a Phase I and Phase II human clinical trials in end-stage cancer patients and is currently in a Phase II trial for first-line treatment of colorectal and biliary cancer patients. We have also undertaken pre-clinical work with DAVANAT® in combination with other chemotherapy drugs and have evidence that DAVANAT® works effectively with a wide range of approved chemotherapy drugs. All of our products are in the development stage.

The Offering

Common stock offered by selling securityholders:	37,087,013 shares
Use of Proceeds:	We will not receive any proceeds from the sale of share in this offering.
American Stock Exchange symbol:	PRW

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RISK FACTORS THAT MAY AFFECT FUTURE RESULTS

An investment in our common stock involves a high degree of risk. You should carefully consider the risks described below and in the documents incorporated herein by reference before deciding to invest in our common stock. If any of the risks set forth below or in the documents incorporated herein by reference actually happen, our business, financial condition and operating results could be materially adversely affected. In this case, the trading price of our common stock could decline, and you could lose all or part of your investment.

Risks Related to Pro-Pharmaceuticals, Inc.

We Are at an Early Stage of Development with Limited Operating History. We are a development-stage company with a limited operating history, and we have not generated any revenues to date. We have no therapeutic products available for sale, and none are expected to be commercially available for several years, if at all. We may never generate revenue or become profitable, even if we are able to commercialize any products.

We Have Incurred Net Losses to Date and Depend on Outside Capital. Our accumulated deficit as of September 30, 2006, was approximately $34,203,000. We will need to continue to conduct significant research, development, testing and regulatory compliance activities that, together with projected general and administrative expenses, we expect will result in substantial operating losses for the next several years. Accordingly, we will not be generating sales or other revenue and will remain dependent on outside sources of financing during that time. If we are unable to raise funds from outside sources for our continuing operations, we may be adversely affected.

As of September 30, 2006, we had approximately $8,125,000 in available cash, cash equivalents and a certificate of deposit. Based on our current rate of use of cash, we believe we must raise additional capital in 2007. After considering relevant conditions and events and management s plans to fund operations beyond June 2007, if substantial doubt remains about our ability to continue as a going concern for a reasonable period of time, we anticipate that the report of our independent registered public accounting firm for the year ended December 31, 2006 will include an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern.

We may raise capital through public or private equity financings, partnerships, debt financings, bank borrowings, or other sources. Additional funding may not be available on favorable terms or at all. If adequate funds are not otherwise available, we may need to significantly curtail operations. To obtain additional funding, we may need to enter into arrangements that require us to relinquish rights to certain technologies, products and/or potential markets. To the extent that additional capital is raised through the sale of equity, or securities convertible into equity, our equity holders may experience dilution of their proportionate ownership of the company.

Our Product Candidates Will Be Based on Novel Unproven Technologies. Our product candidates will be based on novel unproven technologies using proprietary carbohydrate compounds in combination with FDA approved drugs currently used in the treatment of cancer and other diseases. Carbohydrates are difficult to synthesize, and we may not be able to synthesize carbohydrates that would be usable as delivery vehicles for the anti-cancer drugs we plan to work with.

Our Drug Candidates Are in Clinical Trials and Results Are Uncertain. We have one product candidate in human clinical trials. Pre-clinical results in animal studies are not necessarily predictive of outcomes in human clinical trials. Clinical trials are expensive, time-consuming and may not be successful. They involve the testing of potential therapeutic agents, or effective treatments, in humans, typically in three phases, to determine the safety and efficacy of the product candidates necessary for an approved drug. Many products in human clinical trials fail to demonstrate the desired safety and efficacy characteristics. Even if our products progress successfully through initial human testing, they may fail in later stages of development. We will be dependent on others to conduct our clinical trials, including clinical research organizations and, possibly, government-sponsored agencies. These trials may not start or be completed as we forecast, or may be unsuccessful.

Our Product Candidates May Not Be Successfully Commercialized. Even if our product candidates are successful in clinical trials, they may not be successfully commercialized. Potential products may fail to receive necessary regulatory approvals, be difficult to manufacture on a large scale, be uneconomical to produce, fail to achieve market acceptance, or be precluded from commercialization by proprietary rights of third parties.

Our Lack of Operating Experience May Cause Us Difficulty in Managing Our Growth. We have limited experience in manufacturing or procuring products in commercial quantities, conducting other later-stage phases of the regulatory approval process, selling pharmaceutical products, or negotiating, establishing and maintaining strategic

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relationships. Any growth of our company will require us to expand our management and our operational and financial systems and controls. If we are unable to do so, our business and financial condition would be materially harmed. If rapid growth occurs, it may strain our operational, managerial and financial resources.

We Lack Facilities to Manufacture and Market Our Products and Would Need to Depend on Third Parties for Such Activities. We do not have, and do not now intend to develop, facilities for the manufacture of any of our products for clinical or commercial production. Accordingly, we will need to develop relationships with manufacturers and enter into collaborative arrangements with licensees or have others manufacture our products on a contract basis. We expect to depend on such collaborators to supply us with products manufactured in compliance with standards imposed by the FDA and foreign regulators.

In addition, we have limited experience in marketing, sales or distribution, and we do not intend to develop a sales and marketing infrastructure to commercialize our pharmaceutical products. If we develop commercial products, we will need to rely on licensees, collaborators, joint venture partners or independent distributors to market and sell those products.

We Depend on Key Individuals to Develop Our Products and Pursue Collaborations. We are highly dependent on David Platt, Ph.D., President and Chief Executive Officer; Anatole Klyosov, Ph.D., D.Sc., Chief Scientist; and Eliezer Zomer, Ph.D., Executive Vice President, Manufacturing and Product Development. The loss of any of these persons, or failure to attract or retain other key personnel, could prevent us from pursuing collaborations or developing our products and core technologies. We do not maintain key man insurance on any of these persons.

We Are a Counterclaim Defendant in a Lawsuit Instituted by Dr. Platt. Dr. Platt filed a lawsuit in Massachusetts in January 2004 against GlycoGenesys, Inc. for claims including breach of contract. In its answer GlycoGenesys named us as a counterclaim defendant alleging tortious interference and misappropriation of proprietary rights, and seeks monetary damages and injunctive relief related to our intellectual property. In March 2004, we answered the counterclaim and denied any liability. In connection with a liquidation sale under Chapter 7 of the U.S. Bankruptcy Code, GlycoGenesys sold its intellectual property assets, including its claim in this litigation, to Marlborough Research and Development, Inc. If Marlborough litigates this case and we do not prevail there could be a material adverse impact on our financial position, results of operations or cash flows. We and Dr. Platt intend to contest vigorously any claims Marlborough may assert.

We Could Be Required to Make Substantial Cash Payments Upon an Event of Default Under Our Debentures. Our 7% Convertible Debentures provide for events of default including, without limitation, failure to timely make payments of principal, interest or other amounts due thereunder, failure to observe or perform any covenant or agreement set forth in the Debentures or other material agreements to which we are a party, default on another credit agreement or facility evidencing of obligations in excess of $250,000, ineligibility of our stock for listing or quotation on a trading market, lapse of effectiveness of the registration statement registering the shares subject to this prospectus or inability of selling stockholders to offer and sell shares thereunder in excess of certain blackout periods. If an event of default occurs, the outstanding principal, plus accrued and unpaid interest due thereon, and all other amounts due under each Debenture may become, at the holder s election, immediately due and payable in cash in an amount that is not less than the sum of (i) 130% of the outstanding principal plus accrued and unpaid interest and (ii) other amounts due to such holder. Please see Description of Transaction below for additional detail about the Debentures and warrants.

We Cannot Take Certain Actions Without the Consent of the Debenture Holders. For as long as at least $1 million of our 7% Convertible Debentures remains outstanding, we cannot take certain actions, including, among others, incurrence of indebtedness beyond a stated amount, amendments of our charter or governance documents, repurchase or other acquisition of more than a de minimis number of the shares of our common stock or securities exercisable, convertible or exchangeable for shares of our common stock. These negative covenants may limit actions, such as a finance transaction that requires an amendment of our certificate of organization, that we believe are in the best interests of Pro-Pharmaceuticals but which we cannot complete if the holders of the Debentures do not consent. Please see Description of Transaction below for additional detail about the Debentures and warrants.

Risks Related to the Drug Development Industry

We Will Need Regulatory Approvals to Commercialize Our Products. We currently do not have products approved for sale in the U.S. or any foreign market. We are required to obtain approval from the FDA in order to sell our products in the U.S. and from foreign regulatory authorities in order to sell our products in other countries. The FDA s review and approval process is lengthy, expensive and uncertain. Extensive pre-clinical and clinical data and supporting information must be submitted to the FDA for each indication for each product candidate in order to secure FDA approval. The FDA

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could reject an application or require us to conduct additional clinical or other studies as part of the regulatory review process. Delays in obtaining or failure to obtain FDA approvals would prevent or delay the commercialization of our products, which would prevent, defer or decrease our receipt of revenues. If we receive initial regulatory approval, our product candidates will be subject to extensive and rigorous ongoing domestic and foreign government regulation.

Our Competitive Position Depends on Protection of Our Intellectual Property. Development and protection of our intellectual property are critical to our business. If we do not adequately protect our intellectual property, competitors may be able to practice our technologies. Our success depends in part on our ability to obtain patent protection for our products or processes in the United States and other countries, protect trade secrets, and prevent others from infringing on our proprietary rights.

Since patent applications in the United States are maintained in secrecy for at least portions of their pendency periods (published on U.S. patent issuance or, if earlier, 18 months from earliest filing date for most applications) and since other publication of discoveries in the scientific or patent literature often lags behind actual discoveries, we cannot be certain that we are the first to make the inventions to be covered by our patent applications. The patent position of biopharmaceutical firms generally is highly uncertain and involves complex legal and factual questions. The U.S. Patent and Trademark Office has not established a consistent policy regarding the breadth of claims that it will allow in biotechnology patents.

One or more of our patent applications might not issue as a patent and the claims of any issued patent might not afford meaningful protection for our technologies or products. In addition, patents issued to us or our licensors may be challenged and subsequently narrowed, invalidated or circumvented. Patent litigation is widespread in the biotechnology industry and could harm our business. Litigation might be necessary to protect our patent position or to determine the scope and validity of third-party proprietary rights, and we may not have the required resources to pursue such litigation or to protect our patent rights.

Although we require our scientific and technical employees and consultants to enter into broad assignment of inventions agreements, and all of our employees, consultants and corporate partners with access to proprietary information to enter into confidentiality agreements, these agreements may not be honored.

We are a counterclaim defendant in a lawsuit instituted by Dr. Platt. See Risks Related to Pro-Pharmaceuticals above.

Products We Develop Could Be Subject to Infringement Claims Asserted by Others. Products based on our patents, or intellectual property that we license from others, might be challenged by a third party claiming infringement of its proprietary rights. If we were not able to successfully defend our patents or licensed rights, we may have to pay substantial damages, possibly including treble damages, for past infringement.

We Face Intense Competition in the Biotechnology and Pharmaceutical Industries. The biotechnology and pharmaceutical industries are intensely competitive. We face direct competition from U.S. and foreign companies focusing on drug delivery technologies, which are rapidly evolving. Our competitors include major, multinational pharmaceutical and chemical companies, specialized biotechnology firms and universities and other research institutions. Many of these competitors have greater financial and other resources, larger research and development staffs and more effective marketing and manufacturing organizations, than we do. In addition, academic and government institutions are increasingly likely to enter into exclusive licensing agreements with commercial enterprises, including our competitors, to market commercial products based on technology developed at such institutions. Our competitors may succeed in developing or licensing technologies and products that are more effective or less costly than ours, or succeed in obtaining FDA or other regulatory approvals for product candidates before we do.

Health Care Cost Containment Initiatives and the Growth of Managed Care May Limit Our Returns. Our ability to commercialize our products successfully will be affected by the ongoing efforts of governmental and third-party payors to contain the cost of health care. These entities are challenging prices of health care products and services, denying or limiting coverage and reimbursement amounts for new therapeutic products, and for FDA-approved products considered experimental or investigational, or which are used for disease indications without FDA marketing approval.

Even if we succeed in bringing any products to the market, they may not be considered cost-effective and third-party reimbursement might not be available or sufficient. If adequate third-party coverage is not available, we may not be able to maintain price levels sufficient to realize an appropriate return on our investment in research and product development. In addition, legislation and regulations affecting the pricing of pharmaceuticals may change in ways adverse to us before or after any of our proposed products are approved for marketing.

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Our Insurance Coverage May Not Be Adequate In All Circumstances. In the future, we may, in the ordinary course of business, be subject to claims by, and liability to, persons alleging injury as a result of taking products we have under development. If we are successful in having products approved by the FDA, the sale of such products would expose us to additional potential product liability and other claims resulting from their use. This liability may result from claims made directly by consumers or by pharmaceutical companies or others selling such products. Although we currently have insurance coverage for both product liability and professional liability, it is possible that we will not be able to maintain such insurance on acceptable terms. Any inability to maintain insurance coverage on acceptable terms could prevent or limit the commercialization of any products we develop.

Risks Related to Our Stock

Stock Prices for Biopharmaceutical and Biotechnology Companies Are Volatile. The market price for securities of biopharmaceutical and biotechnology companies historically has been highly volatile, and the market from time to time has experienced significant price and volume fluctuations that are unrelated to the operating performance of such companies. Fluctuations in the trading price or liquidity of our common stock may adversely affect our ability to raise capital through future equity financings.

Large Sales Could Further Reduce the Trading Price of Our Common Stock. We listed our common stock on the American Stock Exchange in September 2003, prior to which our stock traded on the OTC Bulletin Board. Based on varying trading volume to date, our stock could be considered thinly traded. Prior to the registration statement of which this prospectus is a part, we registered for resale, on behalf of existing stockholders, approximately 19.8 million shares of our common stock, and approximately 5.75 million shares of stock issuable upon exercise of immediately exercisable warrants. In the registration statement of which this prospectus is a part, on behalf of the holders of our 7% Convertible Debentures and common stock purchase warrants, we are registering an additional 29.8 million shares of common stock issuable upon conversion or redemption of, and as interest payments on, the Debentures. The interest and principal are payable monthly through January 2008 respectively, in shares of common stock, subject to some restrictions. In general, shares of registered common stock may be re-sold into the public markets without volume or other restrictions. Large sales of our registered shares appear to have placed and could continue to place substantial downward pressure on the trading price of our common stock, particularly if the amount sold significantly exceeds the then-current trading volume of our stock.

Our Stock Price Has Declined Substantially and May Be Subject to Further Downward Pressure by the Debentures. The trading price of our common stock was approximately $3.05 when we sold the Debentures in February 2006 and has since declined substantially. The decline may be attributable to rapid resale of shares we have issued to redeem and as interest on the Debentures or other factors, including the perception of other security holders or the marketplace generally about the terms and nature of our February 2006 financing. We may make additional redemption and interest payments in shares rather than cash, regardless of the number of shares any one or more such payments may require, which could place further downward pressure on the trading price and could be highly dilutive of the ownership of current stockholders.

Four Principal Stockholders May Own Enough Shares to Influence the Direction of the Company. Four of our principal stockholders, David Platt, James Czirr, Yona Binder (by gift from Offer Binder, a founder) and Anatole Klyosov own or control approximately 39% of the outstanding shares of our common stock, and Dr. Platt and Mr. Czirr together own approximately 31%. In the near term at least, and without giving effect to additional issuances of shares as redemption and interest payments on our Debentures, all or some of these stockholders, acting in concert, may be able to substantially influence the election of the Board of Directors and other corporate actions requiring stockholder approval, such as recapitalization or other fundamental corporate action, as well as the direction and policies of our company. Such concentration of ownership also could have the effect of delaying, deterring or preventing a change in control of the company that might otherwise be beneficial to stockholders.

Changes in Laws, Regulations and Financial Accounting Standards May Affect Our Reported Results of Operations. The Sarbanes-Oxley Act of 2002 and related regulations may result in changes in accounting standards or accepted practices within our industry and could add significant new costs to being a public company. New laws, regulations and accounting standards, as well as changes to currently accepted accounting practices, including the expens