

PRO DEX INC  
Form 10-K/A  
November 08, 2012  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K/A No. 2**

x **AMENDMENT NO. 2 TO ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.**

**For the fiscal year ended June 30, 2012**

**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 000-14942**

**PRO-DEX, INC.**

**(Exact name of registrant as specified in its charter)**

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**Colorado**  
(State or other jurisdiction of  
incorporation or organization)  
**2361 McGaw Avenue,**  
**Irvine, California**  
(Address of principal executive offices)  
**84-1261240**  
(I.R.S. Employer  
Identification No.)  
**92614**  
(Zip Code)  
Registrant's telephone number: (949) 769-3200

**Securities registered under Section 12(b) of the Exchange Act:**

<b>Title of each class</b>	<b>Name of each exchange on which registered</b>
Common Stock, no par value	NASDAQ Capital Market

**Securities registered under Section 12(g) of the Exchange 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 15(d) of the Exchange 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 Exchange Act during the past 12 months, 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 Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T 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 is not contained in this Form 10-K, 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 (as defined in Rule 12b-2 of the Exchange Act).

Large accelerated filer  Accelerated filer   
Non-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 December 31, 2011, the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the closing sales price on the Nasdaq Capital Market was \$6,315,268. For the purpose of this calculation, shares owned by officers, directors and 10% stockholders known to the registrant have been deemed to be owned by affiliates. This determination of affiliate status is not a determination for other purposes.

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As of August 31, 2012, 3,272,350 shares of the registrant's no par value common stock were outstanding.

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**EXPLANATORY NOTE**

On September 12, 2012, Pro-Dex, Inc. (the Company, we, us, or our ) filed our Annual Report on Form 10-K for the fiscal year ended June 30, 2012 with the Securities and Exchange Commission ( SEC ), which was subsequently amended by Amendment No. 1 to Form 10-K filed with the SEC on October 26, 2012 ( Form 10-K/A No. 1 ) to include information with respect to Items 10 through 14 of Form 10-K.

We have since determined that there was one late Section 16(a) filing that is required to be reported under Part III, Item 10 of our Form-10-K. Accordingly, this Form 10-K/A No. 2 is being filed to amend our Form 10-K (as previously amended by Form 10-K/A No. 1) to amended and restate our disclosure under Part III, Item 10..

Other than the changes described in this Explanatory Note, we are not amending or updating any information contained our Annual Report on Form 10-K for the fiscal year ended June 30, 2012 (as previously amended by Form 10-K/A No. 1).

Therefore, this Form 10-K/A No. 2 should be read in conjunction with our other filings made with the SEC subsequent to the date of the filing of the aforementioned Annual Report on Form 10-K.

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**PRO-DEX, INC.**

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Part III, Item 10 of our Annual Report on Form 10-K for the fiscal year ended June 30, 2012 (as previously amended by Form 10-K/A No. 1) is hereby amended and restated in its entirety as follows:

**PART III**

**Item 10. Directors, Executive Officers and Corporate Governance**

**Directors**

Our Board is currently composed of four members. All directors or their successor nominees stand for election each year.

Set forth below is certain information with respect to our directors.

Name	Age	Position With Company	Audit	Compensation	Nominating Governance
Michael J. Berthelot	62	Director, Chief Executive Officer and President			
William L. Healey	67	Director and Chairman of the Board	X	X	C
David Holder	70	Director	X	C	X
George J. Isaac	67	Director	C	X	X

(X) Member of the Committee

(C) Chairman of the Committee

Messrs. Healey, Holder and Isaac currently each qualify as an independent director as such term is defined in Rule 5605(a)(2) of the Nasdaq Listing Rules.

Michael J. Berthelot (62) is our Chief Executive Officer and President, and has held these positions since April 2012. In addition, Mr. Berthelot has been the Chief Executive Officer of Cito Capital Corporation, a strategic consulting firm, since 2003, and is the founder and principal of Corporate Governance Advisors Inc., a consulting firm that provides corporate governance audits, performance evaluations, and advisory services to public company boards. From 1992 to 2003, he served as Chairman and Chief Executive Officer of TransTechnology Corporation, a publicly traded multinational manufacturing firm, and from 2003 until July 2006, he continued to serve as its non-executive Chairman. Mr. Berthelot is a Certified Public Accountant and serves as a director of Fresh Del Monte Produce Inc. and on the boards of several privately held companies in the technology industry. He teaches corporate governance at the University of California, San Diego's Rady School of Management's MBA program. Mr. Berthelot has been a director of ours since 2009.

Mr. Berthelot brings the following experience, qualifications, attributes and skills to our Board:

Operating and management experience in manufacturing and distribution businesses, including experience as chairman and chief executive officer of a publicly traded multinational manufacturing and distribution business for 13 years;

Core management and leadership skills gained through experience overseeing and managing multinational operations at the director and chief executive officer levels, including experience in evaluating strategic development opportunities and challenges, risk management, senior leadership development, vendor and customer relationships, competitive and financial positioning and shareholder relationships;

Experience in financial reporting, taxation, accounting and financial controls, business combination transactions, divestiture, restructuring and international business operations, including training as a Certified Public Accountant; and

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Experience in governance matters through public and private directorships for more than 30 years, as a consultant on governance best practices and as a faculty member at a leading university, including experience with matters addressed by compensation, governance and audit committees.

William L. Healey (67) has been a private investor and business consultant since 2006. From 2002 to 2005, he served as President and Chief Executive Officer of Cal Quality Electronics, an electronics manufacturing company. Mr. Healey served as a private investor and consultant from 1999 to 2002. He served as Chairman of the Board of Directors of Smartflex Systems, an electronics manufacturing company, from 1996 to 1999 and as its President and Chief Executive Officer from 1989 to 1999. Prior to 1989, Mr. Healey served in a number of senior executive positions with Silicon Systems, including Senior Vice President of Operations. Mr. Healey also serves as a director of Microsemi Corporation and Sypris Solutions Inc. Mr. Healey has been a director of ours since 2007.

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Mr. Healey brings the following experience, qualifications, attributes and skills to our Board:

20 years of senior-management-level experience in the semiconductor manufacturing industry, including experience in leading certain domestic and international manufacturing operations;

14 years of CEO-level experience in the electronics manufacturing services industry, including experience taking a manufacturing company public and participating in several corporate acquisitions;

16 years of board experience with five public companies including 10 years as chairman or lead independent director; and

Independent of our management.

David Holder (70) has been the Managing General Partner for Holder Capital Partners, a Southern California-focused early-stage, consulting practice focused on healthcare and medical technology, since 1984. From 1997 to 2001, he served as founding venture partner for Mission Ventures, a venture capital fund. During his tenure at Mission Ventures, \$288 million was raised in two funds. In addition to his Mission Ventures investments, he has personally invested in nineteen early-stage ventures and has four currently active portfolio investments. He has formerly served on the board of directors, or attended, as the venture capital representative, the board meetings of twelve venture-backed companies including Pyxis (Nasdaq: PYXS; acquired by CareFusion, NYSE: CFN), TheraTx (Nasdaq: THTX, acquired by Vencor), MedicineNet, Covenant Care, WorkWell and Nexiant. Since 1997, until its acquisition in April 2011, he attended Cogent Healthcare board meetings on behalf of Mission Ventures. He is an early investor and serves on the Senior Advisory Board of MedAssets Corporation (Nasdaq: MDAS) and has served as a member of several non-profit boards. Mr. Holder has been a director of ours since 2009.

Mr. Holder brings the following experience, qualifications, attributes and skills to our Board:

Experience as the sales executive in the development of a fast growing public company, responsible for the simultaneous growth/business development of multiple product lines;

Significant experience regarding capital formation gained from personal venture investing, and institutional venture capital background;

Executive, sales and management experience, gained as original VP of Sales for Home Healthcare of America (later renamed Caremark);

General management/operations experience with Bergen Brunswig Corp. (now AmerisourceBergen);

Sales and management experience gained through positions in two divisions of a large public company, Baxter Laboratories, and subsequently as Director of Sales of a division of American Hospital Supply Corp.;

Knowledge and understanding of the latest capitalization, business development and marketing trends, from his current position as Managing General Partner for Holder Capital Partners, a Southern-California focused, early-stage, consulting practice;



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Early investor in and current member of the Senior Advisory Board of a public, fast growth, middle market healthcare SaaS company, with a large provider client base of hospital IDNs and physician healthcare delivery networks; and

Independent of our management.

George J. Isaac (67) is a Certified Public Accountant and has had his own certified public accounting firm since 2003. Mr. Isaac served as a consultant to us and our predecessor from 1978 until 1984, was our Chief Financial Officer from August 1995 to June 2000, and Secretary from June 2000 to October 2003. Mr. Isaac was a principal in the certified public accounting firm of Joseph B. Cohan and Associates, Worcester, Massachusetts from 1978 to 1995. Mr. Isaac is a director of Professional Sales Associates, Inc., a dental product sales organization, and Commerce Bank & Trust, and is a trustee of Becker College. Mr. Isaac has been a director of ours since 1995.

Mr. Isaac brings the following experience, qualifications, attributes and skills to our Board:

Financial management experience in serving as our chief financial officer for more than 11 years;

Leadership and industry experience in serving on the Board of Directors for a company in one of our target industries;

Experience in financial reporting, taxation, accounting and financial controls, business combination transactions, and governance as a Certified Public Accountant; and

Independent of our management.

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### **Non-Director Key Management Personnel**

Set forth below is information concerning our other non-director key management personnel.

Harold A. Hurwitz (60) was appointed our Treasurer, Chief Financial Officer and Secretary in October 2010. Between March 2010 and September 2010, Mr. Hurwitz served as an independent consultant, providing service primarily to a molecular diagnostics company. From April 2008 to February 2010, Mr. Hurwitz served as Chief Financial Officer and Vice President of Interventional Spine, Inc., a medical device company. Prior to joining Interventional Spine in April 2008, Mr. Hurwitz served as Principal Consultant, focused on the medical technology industry, with McDermott & Bull from December 2005 to March 2008. Mr. Hurwitz served as an independent consultant from December 2004 to December 2005, with his primary client during that time being Micro Therapeutics, Inc. He was Chief Financial Officer of Micro Therapeutics, Inc. from December 1997 to December 2004. Earlier in his career, Mr. Hurwitz was a Partner with Coopers & Lybrand L.L.P. (now PricewaterhouseCoopers LLP), where he was a Business Assurance Partner, Team Leader of its Orange County Medical Device Practice and an SEC Review Partner. He has a broad financial background that includes more than 35 years of public accounting and financial management experience. In addition, he has leadership experience in human resources and information technology, diversified fund raising and Sarbanes-Oxley compliance. Mr. Hurwitz holds a B.A. in Economics from the University of California, Los Angeles.

### **Section 16(a) Beneficial Ownership Reporting Compliance**

Under Section 16(a) of the Securities Exchange Act of 1934, as amended (the Exchange Act), our directors and officers and any person who owns more than ten percent of our Common Stock are required to report their initial ownership of our Common Stock and any subsequent changes in that ownership to the SEC and the Nasdaq Capital Market. Officers, directors and greater than 10% shareholders are required by SEC regulations to furnish us with copies of all forms they file in accordance with Section 16(a). Based solely on our review of the copies of such forms received by us, or written representations from certain reporting persons that no other reports were required for those persons, we believe that, except for a late Form 4 filing by Michael J. Berthelot reporting one grant of Common Stock options, during the fiscal year ended June 30, 2012, our officers, directors and greater than 10% shareholders complied with all Section 16(a) filing requirements applicable to such persons.

### **Family Relationships**

There are no family relationships among our executive officers and directors.

### **Code of Business Conduct and Ethics**

Our Board has adopted a Code of Business Conduct and Ethics ( Code of Ethics ) that applies to all of our directors, officers and employees, and can be obtained from our website at [www.pro-dex.com](http://www.pro-dex.com) under Investor Relations, then Governance, and then Code of Ethics. Our Code of Ethics constitutes our code of ethics within the meaning of Section 406 of the Sarbanes-Oxley Act of 2002 and is our code of conduct within the meaning of NASDAQ's listing standards.

Information on our Internet site is not, and shall not be deemed to be, a part of this Annual Report or incorporated into any other filings we make with the SEC.

### **Audit Committee**

Our Board has an Audit Committee that consists of three Board members, Messrs. Isaac (Chairman), Healey and Holder. The Audit Committee is comprised entirely of non-employee, independent directors (as defined in Rule 5605(a)(2) of the Nasdaq Listing Rules) and operates under a written charter adopted by our Board. The duties of the Audit Committee include meeting with our independent registered public accounting firm to review the scope of the annual audit and to review our quarterly and annual financial statements before the statements are released to our shareholders. The Audit Committee also evaluates the independent public accounting firm's performance and appoints or replaces the independent public accounting firm subject, if applicable, to the consideration of shareholder ratification for the ensuing fiscal year. A copy of the Audit Committee's current charter may be found at our website at [www.pro-dex.com](http://www.pro-dex.com) under Investor Relations, then Governance, and then Audit Committee Charter. The Audit Committee and Board have confirmed that the Audit Committee does and will continue to include at least three independent directors and has confirmed that Mr. Isaac meets applicable SEC regulations for designation as an Audit Committee Financial Expert based upon his experience noted herein.

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**PART IV**

**Item 15. Exhibits**

The exhibits filed as part of this Amendment No. 2 to Form 10-K are as follows:

- 31.1 Certification of the Chief Executive Officer Required by Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certifications of the Chief Financial Officer Required by Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

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SIGNATURES

In accordance with Section 13 or 15(d) of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

PRO-DEX INC.

/ s / Michael J. Berthelot  
Michael J. Berthelot  
President, Chief Executive Officer and Director  
(Principal Executive Officer)

In accordance with the Exchange Act, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

/ s / Michael J. Berthelot Michael J. Berthelot President, Chief Executive Officer and Director (Principal Executive Officer)	November 7, 2012 Date
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/ s / Harold A. Hurwitz Harold A. Hurwitz Treasurer, Chief Financial Officer & Secretary (Principal Financial and Accounting Officer)	November 7, 2012 Date
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/ s / George J. Isaac George J. Isaac Director	November 7, 2012 Date
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/ s / William L. Healey William L. Healey Director	November 7, 2012 Date
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/ s / David Holder David Holder Director	November 7, 2012 Date
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