

RUBICON MEDICAL CORP
Form SC TO-T/A
June 02, 2005

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

**Amendment No. 2 to
SCHEDULE TO T/A
Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934**

RUBICON MEDICAL CORPORATION

(Name of Subject Company)

NEMO I ACQUISITION, INC.

a wholly owned subsidiary of

BOSTON SCIENTIFIC CORPORATION

(Names of Filing Persons (Offeror))

Common Stock, Par Value \$0.001 Per Share

(Title of Class of Securities)

78112Q103

(CUSIP Number of Class of Securities)

**Lawrence J. Knopf
One Boston Scientific Place
Natick, Massachusetts 01760-1537
(508) 650-8000**

(Name, Address and Telephone Number of Persons Authorized to Receive Notices
and Communications on Behalf of Filing Persons)

Copy to:

**Clare O'Brien, Esq.
Shearman & Sterling LLP
599 Lexington Avenue
New York, New York 10022
(212) 848-4000**

CALCULATION OF FILING FEE

Transaction Valuation*

Amount of Filing Fee**

\$97,883,095

\$11,520.84

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This Amendment No. 2 to the Tender Offer Statement on Schedule TO amends and supplements the Tender Offer Statement filed on Schedule TO filed on May 3, 2005 (as so amended, the "Schedule TO"), by Nemo I Acquisition, Inc., a Delaware corporation ("Purchaser") and a wholly owned subsidiary of Boston Scientific Corporation, a Delaware corporation ("Parent"). This Schedule TO relates to the offer by Purchaser to purchase any and all outstanding shares of Common Stock, par value \$0.001 per share (the "Shares"), of Rubicon Medical Corporation, a Delaware corporation (the "Company"), at a purchase price of \$1.50 per Share, net to the seller in cash, without interest, together with the right to receive additional payments in the aggregate amount of up to \$1.44 per Share in cash, without interest, if certain milestones are achieved, upon the terms and subject to the conditions set forth in the Offer to Purchase dated May 3, 2005 (the "Offer to Purchase") and in the related Letter of Transmittal.

Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Offer to Purchase.

Item 8. Interest in the Securities of the Subject Company.

Item 11. Other Information.

Item 8 and Item 11 of the Schedule TO are hereby amended and supplemented by including the following:

"At 12:00 midnight, New York City time, on Wednesday, June 1, 2005, the Offer expired. Based on information provided by the Depository, as of such time, approximately 30,832,649 Shares were tendered pursuant to the Offer, including Shares tendered pursuant to Notices of Guaranteed Delivery. Such Shares, when combined with the Shares already owned by Parent on a fully diluted basis, constitute in excess of 96% of the outstanding Shares. On June 2, 2005, effective as of 8:00 a.m., New York City time, all Shares validly tendered and not withdrawn prior to the expiration of the Offer were accepted for payment in accordance with the terms of the Offer.

Upon the terms and subject to the conditions of the Transaction Agreement, Parent and Purchaser will take all necessary actions to promptly effect the Merger of Purchaser with and into the Company."

On June 2, 2005, Parent issued a press release announcing the preliminary results of the Offer. The full text of the press release is filed as Exhibit (a)(10) hereto and is incorporated by reference herein.

Item 12. Material to Be Filed as Exhibits.

Item 12 of the Schedule TO is hereby amended and supplemented to include the following:

"(a)(10) Press release issued by Parent on June 2, 2005."

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After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: June 2, 2005

NEMO I ACQUISITION, INC.

By: /s/ LAWRENCE J. KNOFF

Name: Lawrence J. Knopf
Title: Vice President Legal

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After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: June 2, 2005

BOSTON SCIENTIFIC CORPORATION

By: /s/ LAWRENCE J. KNOPF

Name: Lawrence J. Knopf

Title: Vice President and Assistant General Counsel

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EXHIBIT INDEX

Exhibit No.

(a)(10) Press release issued by Parent on June 2, 2005.

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