

BioRestorative Therapies, Inc.
Form S-1
October 05, 2017

As filed with the Securities and Exchange Commission on October 5, 2017

Registration No. 333-

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-1

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

BIORESTORATIVE THERAPIES, INC.

(Exact name of registrant as specified in its charter)

Delaware	8099	91-1835664
(State or other jurisdiction of	(Primary Standard Industrial	(I.R.S. Employer
incorporation or organization)	Classification Code Number)	Identification Number)

40 Marcus Drive, Suite One

Melville, New York 11747

(631) 760-8100

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

Mark Weinreb, President and Chief Executive Officer

BioRestorative Therapies, Inc.

40 Marcus Drive, Suite One

Melville, New York 11747

(631) 760-8100

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Fred Skolnik, Esq.

Robert Charron, Esq.

Daniel R. Palmadesso, Esq.

Michael Nertney, Esq.

Certilman Balin Adler & Hyman, LLP

Ellenoff Grossman & Schole LLP

90 Merrick Avenue

1345 Avenue of the Americas

East Meadow, New York 11554

New York, New York 10105

(516) 296-7048

(212) 370-1300

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

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, 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. []

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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 post-effective amendment filed pursuant to Rule 462(d) 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. []

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

Large accelerated filer [] Accelerated filer []
 Non-accelerated filer [] (Do not check if a smaller reporting company) Smaller reporting company [X]
 Emerging growth company [X]

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. []

Calculation of Registration Fee

Title of each class of securities to be registered	Proposed maximum aggregate offering price ⁽¹⁾	Amount of registration fee ⁽²⁾
Common Stock, par value \$.001 per share ⁽³⁾	\$-	\$-
Series A Convertible Preferred Stock, par value \$.01 per share ⁽³⁾	\$-	\$-
Common Stock Purchase Warrants ⁽⁴⁾	\$-	\$-
Placement Agent’s Warrant to Purchase Common Stock ⁽⁴⁾	\$-	\$-
Common Stock Underlying Common Stock Purchase Warrants ⁽³⁾	\$-	\$-
Common Stock Underlying Placement Agent’s Warrant ⁽³⁾⁽⁵⁾	\$-	\$-
TOTAL REGISTRATION FEE	\$31,500,000	\$ 3,921.75

(1) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933.

(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

Pursuant to Rule 416 under the Securities Act of 1933, the shares of common stock and preferred stock registered hereby also include an indeterminate number of additional shares of common stock and preferred stock as may (3) from time to time become issuable by reason of stock splits, stock dividends, recapitalizations or other similar transactions.

(4) No registration fee pursuant to Rule 457(g) under the Securities Act of 1933.

Estimated solely for the purposes of calculating the registration fee pursuant to Rule 457(g) under the Securities Act of 1933. The warrant is exercisable at a per share exercise price equal to 125% of the public offering price. As (5) estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(g) under the Securities Act, the proposed maximum aggregate offering price of the shares of common stock underlying the placement agent's warrant is \$ (which is equal to 125% of 8% of \$).

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 or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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

PRELIMINARY PROSPECTUS SUBJECT TO COMPLETION DATED OCTOBER 5, 2017

Up to \$15,000,000

Common Stock

Series A Convertible Preferred Stock

Warrants to Purchase Common Stock

We are offering up to _____ shares of our common stock, together with warrants to purchase up to _____ shares of our common stock (and the shares issuable from time to time upon exercise of the warrants), pursuant to this prospectus. The shares and warrants will be separately issued and sold to purchasers in equal proportion. Each warrant will have an exercise price of \$ _____ per share (_____ % of the public offering price per share of common stock in this offering), will be exercisable upon issuance and will expire _____ years from the date of issuance.

We are also offering to those purchasers, if any, whose purchase of common stock and warrants in this offering would result in the purchaser (together with its affiliates and certain related parties) beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of our outstanding common stock immediately following the consummation of this offering, the opportunity to purchase, if they so choose, shares of Series A convertible preferred stock, par value \$.01 per share, referred to as Series A preferred stock, together with warrants to purchase shares of common stock. Each share of Series A preferred stock is convertible at any time at the holder's option into a number of shares of common stock equal to \$1,000 divided by \$ _____, referred to as the "Conversion Price", subject to adjustment for reverse stock splits, stock splits and the like. Purchasers of the Series A preferred stock will also receive warrants to purchase a number of shares of our common stock equal to _____ % of the shares of common stock issuable upon conversion of the Series A preferred stock. The public offering price per combined share of Series A preferred stock and related warrant is \$1,000. The shares of Series A preferred stock and warrants will be separately issued and sold to purchasers in equal proportion. Each warrant will have an exercise price of \$ _____ per share (_____ % of the Conversion Price of the Series A preferred stock), will be exercisable upon issuance and will expire _____ years from the date of issuance.

Our common stock is quoted on the OTCQB market under the symbol "BRTX." On October 4, 2017, the last reported sale price of our common stock on the OTCQB market was \$3.15 per share.

We intend to apply to list our common stock and the warrants being sold in this offering on The Nasdaq Capital Market under the symbols "BRTX" and "BRTXW", respectively. No assurance can be given that our application will be approved. If it is not, our shares of common stock, including the shares we sell in this offering, will continue to be quoted for trading on the OTCQB market. However, if the shares and warrants are not listed on Nasdaq, we will only be able to sell the shares and warrants to certain types of investors, such as institutional investors, and in the limited states in which we have made blue sky filings in connection with this offering. As a result, this may limit the number of shares and warrants we can sell in this offering. See "Plan of Distribution" beginning on page 88 of this prospectus. We do not intend to apply for listing of the shares of Series A preferred stock offered pursuant to this prospectus on any securities exchange or trading system.

All references in this prospectus to numbers of shares of common stock and per share information give retroactive effect to the 1-for-20 reverse split of our shares of common stock effected as of July 7, 2015.

Investing in the offered securities involves a high degree of risk. See “Risk Factors” beginning on page 8 of this prospectus for a discussion of information that you should consider before investing in our securities.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	Combined Per Share of Common Stock and Warrant	Combined Per Share of Series A Preferred Stock and Warrant	Total⁽¹⁾
Public offering price	\$	\$	\$
Placement agent fees ⁽²⁾	\$	\$	\$
Proceeds to us, before expenses ⁽³⁾	\$	\$	\$

(1) Assumes the sale of all \$15,000,000 of securities offered by this prospectus.

(2)