

BIOCLINICA INC  
Form SC14D9C  
February 06, 2013

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**SCHEDULE 14D-9**

**(RULE 14d-101)**

**SOLICITATION/RECOMMENDATION STATEMENT UNDER**  
**SECTION 14(d)(4) OF THE SECURITIES EXCHANGE ACT OF 1934**

Amendment No.

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**BIOCLINICA, INC.**

(Name of Subject Company)

**BIOCLINICA, INC.**

(Name of Person(s) Filing Statement)

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**Common Stock, par value \$0.00025 per share, and associated Preferred Share Purchase Rights**

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(Title of Class of Securities)

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**09071B100**

(CUSIP Number of Class of Securities)

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**Mark L. Weinstein**

**Chief Executive Officer**

**BioClinica, Inc.**

**826 Newtown-Yardley Road**

**Newtown, Pennsylvania 18940-1721**

**(267) 757-3000**

(Name, Address and Telephone Number of Person Authorized to Receive Notices  
and Communications on Behalf of the Person(s) Filing Statement)

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With copies to:

**Emilio Ragosa**

**Morgan, Lewis & Bockius LLP**

**502 Carnegie Center**

**Princeton, New Jersey 08540**

**(609) 919-6600**

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer

This Schedule 14D-9 filing relates solely to preliminary communications made before the commencement of a planned tender offer by BC Acquisition Corp. (the Purchaser), a wholly-owned subsidiary of BioCore Holdings, Inc. (the Parent), for all of the outstanding common stock, including the associated preferred share purchase rights, of BioClinica, Inc. (the Company), to be commenced pursuant to the Agreement and Plan of Merger, dated as of January 29, 2013, among the Parent, the Purchaser and the Company.

### **Important Information About the Tender Offer**

This announcement and the description contained herein are for informational purposes only and are not an offer to purchase or a solicitation of an offer to sell securities of BioClinica, Inc. The tender offer described herein has not yet been commenced. At the time the tender offer is commenced, affiliates of JLL Partners intend to file a tender offer statement on a Schedule TO containing an offer to purchase, a letter of transmittal and other related documents with the Securities and Exchange Commission. At the time the tender offer is commenced, BioClinica, Inc. intends to file with the Securities and Exchange Commission a solicitation/recommendation statement on Schedule 14D-9 and, if required, will, file a proxy statement or information statement with the Securities and Exchange Commission in connection with the merger, the second step of the transaction, at a later date. Such documents will be mailed to stockholders of record and will also be made available for distribution to beneficial owners of common stock of BioClinica, Inc. The solicitation of offers to buy common stock of BioClinica will only be made pursuant to the offer to purchase, the letter of transmittal and related documents. Stockholders are advised to read the offer to purchase and the letter of transmittal, the solicitation/recommendation statement, the proxy statement, the information statement and all related documents, if and when such documents are filed and become available, as they will contain important information about the tender offer and proposed merger. Stockholders can obtain these documents when they are filed and become available free of charge from the Securities and Exchange Commission's website at <http://www.sec.gov>, or from the information agent JLL selects. In addition, copies of the solicitation/recommendation statement, the proxy statement and other filings containing information about BioClinica, Inc., the tender offer and the merger may be obtained, if and when available, without charge, by directing a request to BioClinica, Inc. Attention: Ted Kaminer, Chief Financial Officer, at 826 Newtown-Yardley Rd., Newtown, PA 18940, or on BioClinica's corporate website at <http://www.bioclinica.com>.

### **Forward Looking Statements**

Certain matters discussed in this report are forward-looking statements intended to qualify for the safe harbors from liability established by the Private Securities Litigation Reform Act of 1995. Such forward-looking statements may be identified by, among other things, the use of forward-looking terminology such as believes, expects, may, should or anticipates or the negative thereof or other variations thereon or comparable terminology, or by discussions of strategy that involve risks and uncertainties. Such forward-looking statements include the Company's decision to enter into an agreement to be acquired by Parent, the ability of the Company and Parent to complete the transaction contemplated by the definitive agreement, including the parties' ability to satisfy the conditions set forth in the Merger Agreement, and the possibility of any termination of the definitive agreement. The forward-looking statements

contained in this report are based on our current expectations, and those made at other times will be based on our expectations when the statements are made. Factors that could cause or contribute to such differences include, but are not limited to, the expected timetable for completing the proposed transaction; the risk and uncertainty in connection with a strategic alternative process; financial results; the demand for our services and technologies; growing recognition for the use of independent medical image review services; trends toward the outsourcing of imaging services in clinical trials; realized return from our marketing efforts; increased use of digital medical images in clinical trials; integration of our acquired companies and businesses; expansion into new business segments; the success of any potential acquisitions and the integration of current acquisitions; and the level of our backlog are examples of such forward-looking statements; the timing of revenues due to the variability in size, scope and duration of projects; estimates made by management with respect to our critical accounting policies; regulatory delays; clinical study results which lead to reductions or cancellations of projects and other factors, including general economic conditions and regulatory developments, not within our control. Further information can be found in the Company's risk factors contained in its Annual Report on Form 10-K for the year ended December 31, 2011 and most recent filings. The Company does not undertake to update the disclosures made herein, and you are urged to read our filings with the Securities and Exchange Commission.

On February 6, 2013, BioClinica, Inc. issued the following press release:

Company Contact Ted Kaminer

**BioClinica, Inc.**

267-757-3097

Investor Contact - Cheryl Schneider

**Porter, LeVay & Rose, Inc.**

212-564-4700

**FOR IMMEDIATE RELEASE**

**BIOCLINICA ANNOUNCES FOURTH QUARTER AND FULL YEAR 2012 FINANCIAL RESULTS**

**NEWTOWN, PA, February 6, 2013** BioClinica®, Inc. (NASDAQ: BIOC), a leading global provider of clinical trial management solutions, today announced its financial results for the fourth quarter and full year ended December 31, 2012.

Financial highlights for the quarter ended December 31, 2012 include:

- Service revenues increased 20.9% to \$22.2 million as compared with \$18.3 million for the same period 2011.
- GAAP operating income was \$2.1 million compared with \$1.8 million for the same period 2011.
- GAAP net income was \$1.2 million, or \$0.07 per fully diluted share, as compared with \$1.2 million, or \$0.07 per fully diluted share in the year-ago quarter.
- Non-GAAP operating income increased 23.0% to \$2.9 million as compared with \$2.4 million for the same period 2011.

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- Non-GAAP net income increased 12.5% to \$1.7 million, or \$0.10 per fully diluted share, compared to \$1.5 million or \$0.09 per fully diluted share reported in last year's fourth quarter.
- Backlog was \$122.2 million compared with \$123.1 million in the year-ago fourth quarter.

Financial highlights for the full year ended December 31, 2012 include:

- Service revenues increased 16.2% to \$79.0 million as compared with \$68.0 million for the same period 2011.
- GAAP operating income was \$6.5 million (after a restructuring charge of \$839,000), as compared with \$4.4 million (after a restructuring charge of \$1.7 million) for the same period 2011.
- GAAP net income was \$3.7 million or \$0.23 per fully diluted share (after the \$839,000, or \$0.03 per fully diluted share restructuring charge), as compared with \$2.8 million or \$0.17 per fully diluted share (after the \$1.7 million or \$0.07 per fully diluted share restructuring charge) for the same period 2011.
- Non-GAAP operating income increased 20.2% to \$9.9 million as compared with \$8.2 million for the same period 2011.
- Non-GAAP net income increased 12.8% to \$6.0 million or \$0.36 per fully diluted share, compared with \$5.3 million or \$0.32 per fully diluted share in 2011.

Mark L. Weinstein, President and Chief Executive Officer of BioClinica said, "During the fourth quarter we continued to execute our business plan, focusing on our goals of being a leading global provider of clinical trial solutions, advancing our comprehensive clinical trial development platform with best-in-class solutions, and leveraging our investment in technology and infrastructure."

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Mr. Weinstein continued, "We value each of our clients, and strive to deliver the best-in-class services to each of them. Accordingly, as we have previously discussed, in order to remain competitive and offer a best-in-class solution, we continue to invest in our business and our software platform."

As a result of the transaction announced on January 30, 2013, we do not intend to issue earnings guidance for 2013. However, the forthcoming Schedule 14D-9 is expected to be filed on or about February 11, 2013, and this filing is expected to contain the material forecasts and projections shared with our potential buyer," he concluded.

### **Non-GAAP Financial Information**

BioClinica is providing information on 2012 and 2011 non-GAAP income from operations, non-GAAP net income and non-GAAP diluted earnings per share that exclude certain items, as well as the related income tax effects, because of the nature of these items and the impact they have on the analysis of underlying business performance and trends. The non-GAAP information excludes, certain of which are recurring in nature, the impact of stock-based compensation, amortization of intangible assets related to acquisitions, restructuring charges and merger and acquisition costs. We believe the non-GAAP information provides supplemental information useful to investors in comparing our results of operations on a consistent basis from period to period. Management uses these non-GAAP measures in assessing our core operating performance and evaluating our ongoing business operations. These measures are not in accordance with, or an alternative for, generally accepted accounting principles (GAAP) and may be different from non-GAAP measures used by other companies. Therefore, the information may not necessarily be comparable to that of other companies and should be considered as a supplement to, not a substitute for, or superior to, the corresponding measures calculated in accordance with GAAP. Investors are encouraged to review the reconciliations of these non-GAAP financial measures to the comparable GAAP results, which are included below in this press release.

### **About BioClinica, Inc.**

BioClinica, Inc. is a leading global provider of integrated, technology-enhanced clinical trial management solutions. BioClinica supports pharmaceutical and medical device innovation with imaging core lab, internet image transport, electronic data capture, interactive voice and web response, clinical trial management and clinical supply chain design and optimization solutions. BioClinica solutions maximize efficiency and manageability throughout all phases of the clinical trial process. With over 20 years of experience and more than 2,000 successful trials to date, BioClinica has supported the clinical development of many new medicines from early phase trials through final approval. BioClinica operates state-of-the-art, regulatory-body-compliant imaging core labs on two continents, and supports worldwide eClinical and data management services from offices in the United States, Europe and Asia. For more information, please visit [www.bioclinica.com](http://www.bioclinica.com)

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distribution to beneficial owners of common stock of BioClinica, Inc. The solicitation of offers to buy common stock of BioClinica will only be made pursuant to the offer to purchase, the letter of transmittal and related documents. Stockholders are advised to read the offer to purchase and the letter of transmittal, the solicitation/recommendation statement, the proxy statement, the information statement and all related documents, if and when such documents are filed and become available, as they will contain important information about the tender offer and proposed merger. Stockholders can obtain these documents



when they are filed and become available free of charge from the Securities and Exchange Commission's website at <http://www.sec.gov>, or from the information agent JLL selects. In addition, copies of the solicitation/recommendation statement, the proxy statement and other filings containing information about BioClinica, Inc., the tender offer and the merger may be obtained, if and when available, without charge, by directing a request to BioClinica, Inc. Attention: Ted Kaminer, Chief Financial Officer, at 826 Newtown-Yardley Rd., Newtown, PA 18940, or on BioClinica's corporate website at <http://www.bioclinica.com>.

#### **Forward-looking statements**

Certain statements made in this press release are forward-looking statements intended to qualify for the safe harbors from liability established by the Private Securities Litigation Reform Act of 1995. Such forward-looking statements may be identified by, among other things, the use of forward-looking terminology such as believes, expects, may, should or anticipates or the negative thereof or other variations thereon or comparable terminology, or by discussions of strategy that involve risks and uncertainties. Such forward-looking statements include the decision by BioClinica, Inc. to enter into an agreement to be acquired by the holding company controlled by JLL Partners, the ability of BioClinica, Inc. and the holding company controlled by JLL Partners to complete the transaction contemplated by the definitive agreement, including the parties' ability to satisfy the conditions set forth in the merger agreement, and the possibility of any termination of the definitive agreement. The forward-looking statements contained in this press release are based on our current expectations, and those made at other times will be based on our expectations when the statements are made. Factors that could cause or contribute to such differences include, but are not limited to, the expected timetable for completing the proposed transaction; the risk and uncertainty in connection with a strategic alternative process; financial results; the demand for our services and technologies; growing recognition for the use of independent medical image review services; trends toward the outsourcing of imaging services in clinical trials; realized return from our marketing efforts; increased use of digital medical images in clinical trials; integration of our acquired companies and businesses; expansion into new business segments; the success of any potential acquisitions and the integration of current acquisitions; and the level of our backlog are examples of such forward-looking statements; the timing of revenues due to the variability in size, scope and duration of projects; estimates made by management with respect to our critical accounting policies; regulatory delays; clinical study results which lead to reductions or cancellations of projects and other factors, including general economic conditions and regulatory developments, not within our control. Further information can be found in the risk factors contained in the Annual Report of BioClinica, Inc. on Form 10-K for the year ended December 31, 2011 and its most recent filings. BioClinica, Inc. does not undertake to update the disclosures made herein, and you are urged to read our filings with the Securities and Exchange Commission.

- FINANCIAL TABLES TO FOLLOW

**BIOCLINICA, INC. AND SUBSIDIARIES****Consolidated Statements of Income**

(in thousands, except per share data)

(unaudited)

|   | For the Three Months Ended |           | For the Twelve Months Ended |           |
|---|----------------------------|-----------|-----------------------------|-----------|
|   | 12/31/12                   | 12/31/11  | 12/31/12                    | 12/31/11  |
| Service revenues  | 22,167                     | 18,335    | 79,002                      | 67,993    |
| Reimbursement revenues                                    | 5,440                      | 4,084     | 19,276                      | 15,971    |
| Total revenues  | \$ 27,607                  | \$ 22,419 | \$ 98,278                   | \$ 83,964 |
| <b>Costs and expenses:</b>                                |                            |           |                             |           |
| Cost of service revenues                                  | 13,391                     | 10,785    | 48,639                      | 42,217    |
| Cost of reimbursement revenues                            | 5,440                      | 4,084     | 19,276                      | 15,971    |
| Sales & marketing expenses                                | 2,884                      | 2,402     | 10,732                      | 8,726     |
| General & admin. expenses                                 | 3,479                      | 3,145     | 11,560                      | 10,172    |
| Amortization of intangible assets related to acquisitions | 105                        | 156       | 534                         | 623       |
| Mergers & acquisition related costs                       | 190                        |           | 190                         | 162       |
| Restructuring costs                                       |                            |           | 839                         | 1,719     |
| Total cost and expenses                                   | 25,489                     | 20,572    | 91,770                      | 79,590    |
| Operating income  | 2,118                      | 1,847     | 6,508                       | 4,374     |
| Interest income (expense) - net                           | (37)                       | (14)      | (104)                       | (40)      |
| Income before income tax                                  | 2,081                      | 1,833     | 6,404                       | 4,334     |
| Income tax provision (1)                                  | 923                        | 668       | 2,677                       | 1,536     |
| Net income  | \$ 1,158                   | \$ 1,165  | \$ 3,727                    | \$ 2,798  |
| Basic earnings per share                                  | \$ 0.07                    | \$ 0.07   | \$ 0.24                     | \$ 0.18   |
| Weighted average number of shares - basic                 | 15,604                     | 15,677    | 15,626                      | 15,652    |
| Diluted earnings per share                                | \$ 0.07                    | \$ 0.07   | \$ 0.23                     | \$ 0.17   |
| Weighted average number of shares - diluted               | 16,522                     | 16,165    | 16,486                      | 16,432    |

(1) Our effective tax rate would have been less by approximately 3%, with the federal research and experimentation credit, if Congress had enacted the American Taxpayer Relief Act before December 31, 2012.

## BIOCLINICA, INC. AND SUBSIDIARIES

## GAAP to non-GAAP Reconciliation (1)

(in thousands, except per share data)

(unaudited)

|   | For the Three Months Ended |          | For the Twelve Months Ended |          |
|---|----------------------------|----------|-----------------------------|----------|
|   | 12/31/12                   | 12/31/11 | 12/31/12                    | 12/31/11 |
| GAAP operating income   | 2,118                      | 1,847    | 6,508                       | 4,374    |
| Stock-based compensation *  | 479                        | 348      | 1,846                       | 1,369    |
| Amortization of intangible assets related to acquisitions               | 105                        | 156      | 534                         | 623      |
| Mergers & acquisition related costs                                     | 190                        |          | 190                         | 162      |
| Restructuring charges   |                            |          | 839                         | 1,719    |
| Non-GAAP operating income   | \$ 2,892                   | \$ 2,351 | \$ 9,917                    | \$ 8,247 |
| GAAP net income (2)   | 1,158                      | 1,165    | 3,727                       | 2,798    |
| Stock-based compensation, net of taxes                                  | 316                        | 220      | 1,218                       | 884      |
| Amortization of intangible assets related to acquisitions, net of taxes | 69                         | 98       | 352                         | 402      |
| Mergers & acquisition related costs, net of taxes                       | 125                        |          | 125                         | 105      |
| Restructuring charges, net of taxes                                     |                            |          | 554                         | 1,110    |
| Non-GAAP net income   | 1,668                      | \$ 1,483 | 5,976                       | \$ 5,299 |
| GAAP diluted earnings per share   | \$ 0.07                    | \$ 0.07  | \$ 0.23                     | \$ 0.17  |
| Non-GAAP diluted earnings per share                                     | \$ 0.10                    | \$ 0.09  | \$ 0.36                     | \$ 0.32  |

\* Stock based compensation included in total costs and expenses is as follows:

|                            |     |     |       |       |
|----------------------------|-----|-----|-------|-------|
| Cost of service revenues   | 138 | 120 | 544   | 471   |
| Sales & marketing expenses | 14  | 11  | 55    | 41    |
| General & admin. expenses  | 327 | 217 | 1,247 | 857   |
|                            | 479 | 348 | 1,846 | 1,369 |

(1) This table presents a reconciliation of GAAP to non-GAAP income from operations, net income and diluted earnings per share for the three and twelve months ended December 31, 2012 and 2011. The non-GAAP information excludes the impact of stock-based compensation, amortization of intangible assets related to acquisitions, restructuring charges and merger and acquisition costs.

(2) Our effective tax rate would have been less by approximately 3%, with the federal research and experimentation credit, if Congress had enacted the American Taxpayer Relief Act before December 31, 2012.

## BIOCLINICA, INC. AND SUBSIDIARIES

## Consolidated Balance Sheets

(in thousands)

(unaudited)

|   | December 31, 2012 | December 31, 2011 |
|---|-------------------|-------------------|
| <b>ASSETS</b>                                   |                   |                   |
| Cash & cash equivalents                         | \$ 13,915         | \$ 12,575         |
| Accounts receivable, net                        | 22,620            | 16,353            |
| Prepaid expenses & other current assets         | 1,858             | 1,743             |
| Deferred income taxes                           | 4,807             | 5,637             |
| Total current assets                            | 43,200            | 36,308            |
| Property & equipment, net                       | 21,463            | 16,186            |
| Intangibles, net                                | 1,274             | 1,808             |
| Goodwill  | 34,302            | 34,302            |
| Deferred income taxes                           |                   | 1,021             |
| Other assets                                    | 1,055             | 796               |
| Total assets                                    | 101,294           | \$ 90,421         |
| <b>LIABILITIES</b>                              |                   |                   |
| Accounts payable                                | \$ 5,630          | \$ 2,422          |
| Accrued expenses & other current liabilities    | 6,656             | 5,944             |
| Deferred revenue                                | 14,907            | 13,438            |
| Deferred income tax                             |                   | 526               |
| Current maturities of capital lease obligations | 1,176             | 423               |
| Current liability for acquisition earn-out      |                   | 2,000             |
| Total current liabilities                       | 28,369            | 24,753            |
| Long-term capital lease obligations             | 3,948             | 1,535             |
| Deferred income taxes                           | 5,002             | 4,499             |
| Other liability                                 | 1,512             | 1,574             |
| Total liabilities                               | 38,831            | 32,361            |
| <b>STOCKHOLDERS' EQUITY</b>                     |                   |                   |
| Common stock                                    | 4                 | 4                 |
| Treasury stock                                  | (2,479)           | (1,126)           |
| Additional paid-in-capital                      | 51,598            | 49,564            |
| Retained earnings                               | 13,317            | 9,590             |
| Accumulated other comprehensive (loss) income   | 23                | 28                |
| Total stockholders' equity                      | 62,463            | 58,060            |
| Total liabilities & stockholders' equity        | \$ 101,294        | \$ 90,421         |

## BIOCLINICA, INC. AND SUBSIDIARIES

## Consolidated Statements of Cash Flows

(in thousands)

(unaudited)

|   | For the Twelve Months Ended |           |
|---|-----------------------------|-----------|
|   | 12/31/12                    | 12/31/11  |
| Cash flows from operating activities:   |                             |           |
| Net income  | 3,727                       | 2,798     |
| Adjustments to reconcile net income to net cash provided by operating activities: |                             |           |
| Depreciation and amortization   | 5,251                       | 4,550     |
| Provision for deferred income taxes   | 1,776                       | 295       |
| Excess tax benefit related to stock options                                       | (101)                       | (20)      |
| Change in deferred taxes related to canceled options                              | 152                         |           |
| Bad debt provision  | 10                          | 22        |
| Stock based compensation  | 1,846                       | 1,369     |
| Gain on sale/leaseback  | 147                         | 47        |
| Accretion of acquisition earn-out   |                             | 114       |
| Changes in operating assets and liabilities:                                      |                             |           |
| Increase in accounts receivable   | (6,277)                     | (4,507)   |
| (Increase) decrease in prepaid expenses & other current assets                    | (143)                       | 761       |
| Increase in other assets  | (260)                       | (91)      |
| Increase in accounts payable  | 2,540                       | 355       |
| (Decrease) increase in accrued expenses & other current liabilities               | (69)                        | 1,294     |
| Increase in deferred revenue  | 1,469                       | 42        |
| (Decrease) increase in other liabilities  | (65)                        | 697       |
| Net cash provided by operating activities   | \$ 10,003                   | \$ 7,726  |
| Cash flows from investing activities:   |                             |           |
| Purchases of property & equipment   | (3,918)                     | (1,859)   |
| Capitalized software development costs  | (4,986)                     | (3,908)   |
| Net cash paid for acquisition earn-out  | (2,000)                     |           |
| Net cash used in investing activities   | (10,904)                    | (5,767)   |
| Cash flows from financing activities:   |                             |           |
| Proceeds from sale/leaseback  | 3,893                       | 1,335     |
| Payments under capital lease obligations  | (727)                       | (253)     |
| Purchase of treasury stock  | (1,353)                     | (1,110)   |
| Excess tax benefit related to stock options                                       | 101                         | 20        |
| Change in deferred taxes related to canceled options                              | (152)                       |           |
| Proceeds from exercise of stock options   | 466                         | 205       |
| Net cash provided by financing activities   | \$ 2,228                    | \$ 197    |
| Effect of exchange rate changes on cash   | 13                          | (24)      |
| Net increase in cash & cash equivalents   | \$ 1,340                    | \$ 2,132  |
| Cash and cash equivalents at beginning of period                                  | \$ 12,575                   | 10,443    |
| Cash and cash equivalents at end of period  | \$ 13,915                   | \$ 12,575 |

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