

VARIAGENICS INC  
Form 425  
November 12, 2002

Filed by Hyseq, Inc.  
Pursuant to Rule 425 under the  
Securities Act of 1933  
and deemed filed pursuant to Rule 14a-12  
under the Securities Exchange Act of 1934  
Subject Company: Variagenics, Inc.  
Commission File No.: 000-31035

**Hyseq Pharmaceuticals**

**NASDAQ SYMBOL**

HYSQ

**INDUSTRY**

Biopharmaceuticals

**FOUNDED**

1992

**IPO**

August 1997

**CORPORATE WEBSITE**

www.Hyseq.com

**VARIAGENICS, Inc.**

**NASDAQ SYMBOL**

VGNX

**INDUSTRY**

Biopharmaceuticals/Diagnostics

**FOUNDED**

1992

**IPO**

July 2000

**CORPORATE WEBSITE**

www.VARIAGENICS.com

**BUILDING FOR THE FUTURE: NEW COMPANY WILL MAXIMIZE EXCELLENT CASH POSITION AND  
EXPERIENCED MANAGEMENT TEAM TO SUPPORT DEVELOPMENT OF NOVEL PRODUCTS**

**CORPORATE STRUCTURE**

The merger will be completed through a reverse triangular, stock-for-stock merger in which Hyseq will form a new wholly-owned subsidiary that will merge into VARIAGENICS. The surviving entity will then be merged upstream into Hyseq. Subsequently, Hyseq will change its legal name to a yet-to-be determined name, NewCo. Hyseq's existing subsidiary, Callida Genomics, will remain a privately held, separately funded, majority owned subsidiary of NewCo.

**COMPANY FOCUS**

NewCo represents a value-creating opportunity to integrate the two companies' significant assets into a product-focused organization based on:

Alfimeprase, a novel acting thrombolytic in Phase I trials

Robust biotherapeutic drug development pipeline based on proprietary human gene sequences and associated intellectual property

Cancer diagnostics program

Proprietary SNP database to support molecular diagnostics development

Strong cash position expected to fund operations for at least two years

Strong partnerships with major pharmaceutical companies including Amgen, Novartis, Kirin and Deltagen

**LOCATIONS**

NewCo will be headquartered in Sunnyvale, California. Clinical operations and biotherapeutic research and discovery will reside in Sunnyvale, with discovery and development of molecular diagnostics residing in Cambridge, Massachusetts.

**BOARD OF DIRECTORS AND MANAGEMENT**

The NewCo board of directors will include a total of seven members: Dr. George Rathmann as chairman and three members from each of the existing boards of Hyseq and VARIAGENICS.

Dr. Ted W. Love will serve as president, CEO and board member of the combined entity.

**COMPANY SIZE**

In order to ensure a focused and successful business model and to help secure funds through approximately December 2004, NewCo will be approximately 110-120 employees following the close of the transaction.

**TRANSACTION TERMS**

Under the terms of the agreement, each outstanding share of VARIAGENICS common stock will be exchanged for Hyseq common stock at an exchange ratio of 1:1.6451, based on the closing price of Hyseq shares on November 8, 2002. This exchange ratio implies a purchase price for VARIAGENICS of \$2.22 per common share of VARIAGENICS, or approximately \$55.9 million (including in the money options and warrants).

The board of directors of both Hyseq and VARIAGENICS approved the definitive merger agreement. The transaction, which is structured as a tax-free reorganization for federal income tax purposes, is subject to the approval of the shareholders of both Hyseq and VARIAGENICS, as well as other closing conditions. Selected stockholders of Hyseq and VARIAGENICS have agreed to vote in favor of the merger. Both parties will strive to complete the merger by the end of February 2003, at which time shares of the new company will trade on Nasdaq under a new stock symbol and yet-to-be determined company name.

The bankers involved in the transaction are Banc of America Securities and SG Cowen Securities Corp.

**ADDITIONAL INFORMATION**

In connection with the proposed merger, Hyseq and VARIAGENICS will file a joint proxy statement/prospectus with the Securities and Exchange Commission (SEC). INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE JOINT PROXY STATEMENT/PROSPECTUS WHEN IT BECOMES AVAILABLE AS IT WILL CONTAIN IMPORTANT INFORMATION ABOUT HYSEQ, VARIAGENICS, THE MERGER AND RELATED MATTERS. INVESTORS AND SECURITY HOLDERS WILL HAVE ACCESS TO FREE COPIES OF THE JOINT PROXY STATEMENT/PROSPECTUS (WHEN AVAILABLE) AND OTHER DOCUMENTS FILED WITH THE SEC BY HYSEQ AND VARIAGENICS THROUGH THE SEC WEB SITE AT WWW.SEC.GOV. THE JOINT PROXY STATEMENT/PROSPECTUS AND RELATED MATERIALS MAY ALSO BE OBTAINED FOR FREE (WHEN AVAILABLE) FROM HYSEQ AND VARIAGENICS BY CALLING THE CONTACT LISTED BELOW.

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Hyseq, VARIAGENICS and their respective directors, executive officers, certain members of management and employees, may be deemed to be participants in the solicitation of proxies in connection with the proposed merger. Information regarding the persons who may, under the rules of the SEC, be considered to be participants in the solicitation of Hyseq's stockholders in connection with the proposed merger is set forth in Hyseq's proxy statement for its 2002 annual meeting of stockholders, dated June 28, 2002 and filed with the SEC on June 13, 2002. Information regarding the persons who may, under the rules of the SEC, be considered to be participants in the solicitation of VARIAGENICS' stockholders in connection with the proposed merger is set forth in VARIAGENICS' proxy statement for its 2002 annual meeting, dated April 30, 2002 and filed with the SEC on April 29, 2002. Additional information will be set forth in the joint proxy statement/prospectus when it is filed with the SEC.

**FOR ADDITIONAL INFORMATION PLEASE CONTACT**

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This press release contains forward-looking statements within the meaning of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements may be identified by words such as believe, expect, anticipate, should, may, estimate, and potential, among others. These statements, including statements about the proposed merger, the reasons for timing of and benefits of the proposed merger, and future financial and operating goals and results, are based on management's current expectations and beliefs and are subject to a number of risks, uncertainties, assumptions and other factors that could cause actual results to differ materially from those in the forward-looking statements. Such factors include risk that the proposed merger may not be approved by stockholders, Hyseq's or VARIAGENICS' inability to satisfy the closing conditions of the merger, risk that the two companies' businesses will not be integrated successfully, costs related to the proposed merger, the termination of existing pharmaceutical and biotechnology collaborations, the combined company's inability to further identify, develop and achieve commercial success for new products and technologies, the risk that the combined company may be unable to successfully finance and secure regulatory approval of and market its drug candidates, risks associated with VARIAGENICS' technology, the combined company's ability to protect its proprietary technologies, risk of new, changing and competitive technologies, and regulations in the U.S. and internationally, and other factors (such as economic, business, competitive and/or regulatory factors) affecting each company's businesses generally as set forth in HYSEQ's and VARIAGENICS' filings with the SEC, including their Annual Reports on Form 10-K for the fiscal years ended 2001, their most recent Quarterly Reports on Form 10-Q and their Current Reports on Form 8-K. HYSEQ and VARIAGENICS each expressly disclaim any duty to update information contained herein.