

NEPHROS INC
Form DEF 14A
May 01, 2006

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 14A

PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES EXCHANGE ACT OF 1934

Filed by the Registrant x
Filed by a Party other than the Registrant o

Check the appropriate box:

- o Preliminary Proxy Statement
- o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- x Definitive Proxy Statement
- o Definitive Additional Materials
- o Soliciting Material Pursuant to Rule 14a-11(c) or Rule 14a-12

NEPHROS, INC.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required.
 - o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
- (1) Title of each class of securities to which transaction applies:
-

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

1

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

2

Dear Stockholder:

We invite you to attend our annual meeting of stockholders at 9:00 a.m. on June 21, 2006 at the offices of Kramer Levin Naftalis & Frankel LLP located at 1177 Avenue of the Americas in New York, New York. At the meeting, you will hear a report on our operations and have a chance to meet certain of our directors and executive officers.

This booklet includes the formal notice of the meeting and the proxy statement. The proxy statement tells you more about the agenda and procedures for the meeting. It also describes how the Board operates and gives personal information about our directors and executive officers.

Even if you only own a few shares, we want your shares to be represented at the meeting. I urge you to complete, sign, date, and return your proxy card promptly in the enclosed envelope.

We look forward to seeing you on the 21st of June.

Sincerely yours,

/s/ Norman J. Barta
Norman J. Barta
*Chief Executive Officer &
President*

May 1, 2006

1

**NEPHROS, INC.
3960 BROADWAY
NEW YORK, NEW YORK 10032**

**NOTICE OF
ANNUAL MEETING OF STOCKHOLDERS
June 21, 2006**

Notice is hereby given that the Annual Meeting of Stockholders of Nephros, Inc. will be held at 9:00 a.m. on Wednesday, June 21, 2006, at the offices of Kramer Levin Naftalis & Frankel LLP located at 1177 Avenue of the Americas in New York, New York, for the following purposes:

1. To elect two directors for a term of three years;
2. To ratify the appointment by the Audit Committee of Deloitte & Touche LLP as the company's independent registered public accounting firm for our fiscal year ending December 31, 2006; and
3. To transact such other business as may properly come before the meeting and any adjournments thereof. We are currently unaware of any additional business to be presented at the meeting.

You must own shares at the close of business on May 1, 2006 to vote at the meeting.

In order that your shares may be represented at the meeting in case you are not personally present, please complete, sign and date the enclosed proxy/voting card and return it as soon as possible in the enclosed addressed envelope. If you attend the meeting, you may vote your shares in person, even if you have signed and returned the proxy card.

BY ORDER OF THE BOARD OF DIRECTORS

Sincerely,

/s/ Norman J. Barta
Norman Barta
President
Chief Executive Officer,
Corporate Secretary

May 1, 2006

TABLE OF CONTENTS

	Page
GENERAL INFORMATION	4
PROPOSAL 1: ELECTION OF DIRECTORS	6
DIRECTORS, DIRECTOR NOMINEES AND EXECUTIVE OFFICERS	6
GOVERNANCE OF THE COMPANY	9
PROPOSAL 2: RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM	13
AUDIT COMMITTEE REPORT	14
COMPENSATION COMMITTEE REPORT	15
EXECUTIVE COMPENSATION	16
Summary Compensation Table	17
STOCK OPTIONS	17
Options Granted in the Last Fiscal Year	17
Aggregated Option Exercises in Last Fiscal Year and Fiscal Year-End Option Values	17
Equity Compensation Plan Information	18
Section 16(a) Beneficial Ownership Reporting Compliance	19
PRINCIPAL STOCKHOLDERS AND SHAREHOLDINGS OF MANAGEMENT	19
EXECUTIVE EMPLOYMENT AGREEMENTS AND OTHER RELATIONSHIPS	21
Employment Agreement	21
CERTAIN TRANSACTIONS	23
OTHER MATTERS	24

GENERAL INFORMATION

Stockholders entitled to vote

Stockholders of Nephros, Inc. (“Nephros” or the “Company”), as recorded on our stock register as of the close of business on May 1, 2006, may vote at the meeting. As of May 1, 2006, we had 12,317,992 shares of common stock outstanding. Each share of common stock outstanding on the record date is entitled to one vote on each matter of business considered at the meeting.

Mailing of proxy statement and form of proxy

This proxy statement and the accompanying form of proxy are being mailed on or around May 8, 2006, in connection with the solicitation of proxies by the Board of Directors for use at the annual meeting. This proxy statement contains important information for you to consider when deciding how to vote on matters brought before the meeting. Please read it carefully. Our annual report on Form 10-KSB for fiscal 2005 is being mailed to stockholders together with this proxy statement.

How proxies work

Our Board of Directors is asking for your proxy. Giving us your proxy means you authorize us to vote your shares at the meeting in the manner you direct.

You may vote for or against each of our director candidates. The election of each nominee for director requires a plurality of votes cast. Accordingly, abstentions and broker “non-votes” (that is, proxies from brokers or nominees indicating that such persons have not received instructions from the beneficial owner or other persons entitled to vote shares on a particular matter with respect to which brokers or nominees do not have discretionary power) will not affect the outcome of the election.

You may vote for, vote against or abstain from voting for the proposal to ratify the appointment by the Audit Committee of our Independent Registered Public Accounting Firm. The affirmative vote of a majority of the shares of Common Stock represented and voted at the Annual Meeting is required for approval of this matter. On this matter, abstentions will have the same effect as a negative vote. However, because broker non-votes will not be treated as shares that are present and entitled to vote with respect to a specific proposal, broker non-votes will have no effect on the outcome of this matter.

If you sign and return the enclosed proxy card but do not specify how to vote, we will vote your shares **IN FAVOR** of our director candidates, and **IN FAVOR** of the ratification of the appointment by the Audit Committee of our Independent Registered Public Accounting Firm and **in our proxies’ discretion** on such other matters as may properly be raised at the meeting.

You may receive more than one proxy or voting card depending on how you hold your shares. Shares registered in your name are covered by one card. If you hold shares through someone else, such as a stockbroker, you may get material from them asking how you want to vote those shares.

Revoking a proxy

You may revoke your proxy by sending in a new proxy card with a later date or by sending written notice of revocation to our corporate secretary at our principal executive offices. If you attend the meeting, you may revoke in writing previously submitted proxies and vote in person.

Quorum

A majority of the voting power of the outstanding shares entitled to vote at the meeting shall constitute a quorum, whether present in person or by proxy. If you want to vote in person at the annual meeting, and you hold your Nephros stock through a securities broker (that is, in street name), you must obtain a proxy from your broker and bring that proxy to the meeting. Abstentions and broker non-votes count for quorum purposes but not for voting purposes. Broker non-votes occur when a broker returns a proxy but does not have the authority to vote on a particular proposal.

Attending in person

Only stockholders, their proxy holders and our guests may attend the meeting.

5

PROPOSAL 1: ELECTION OF DIRECTORS

At the meeting, two directors will each be elected to serve a three-year term that will expire at the close of our annual meeting to be held during 2009. The shares represented by the enclosed proxy will be voted to elect as directors the nominees named below, unless a vote is withheld for an individual nominee. If a nominee cannot or will not serve as a director (which events are not anticipated), the shares represented by the enclosed proxy may be voted for another person as determined by the holder of the proxies.

Board Structure

Our Board of Directors currently has eight members. The directors are divided into three classes. Directors in each class serve a term of three years. At each annual meeting, the term of one class expires. Our Class II Directors, whose terms expire at the conclusion of this annual meeting, are Donald G. Drapkin and William J. Fox.

Board Nominees

The Board of Directors has nominated Donald G. Drapkin and William J. Fox for re-election as directors. Each director nominee would serve a three-year term expiring at the close of our annual meeting to be held during 2009. Biographical information on each of the nominees is furnished below under "Directors, Director Nominees and Executive Officers."

Vote Required

The two nominees receiving the highest number of votes cast for them at the meeting will be elected to serve for a term of three years, or until their successors are duly elected and qualified. Abstentions and broker non-votes will not affect the outcome of the election.

Board Recommendation

THE BOARD UNANIMOUSLY RECOMMENDS A VOTE "FOR" THE ELECTION (ITEM 1 OF THE ENCLOSED PROXY CARD) OF MR. DRAPKIN AND MR. FOX AS DIRECTORS.

DIRECTORS, DIRECTOR NOMINEES AND EXECUTIVE OFFICERS

The following information is furnished with regard to the directors, the director nominees and the executive officers as of April 28, 2006.

Name	Age	Position	Director Since	Term Expires
Eric A. Rose, M.D. ⁽¹⁾	55	Chairman of the Board and Class III Director President, Chief Executive Officer and Class III	1997	2007
Norman J. Barta	49	Director	2002	2007
Lawrence J. Centella ⁽¹⁾⁽²⁾⁽³⁾	65	Class III Director	2001	2007
Howard Davis	50	Class I Director	2004	2008
Donald G. Drapkin	58	Class II Director	1997	2006
William J. Fox ⁽¹⁾⁽³⁾	50	Class II Director	2004	2006
Bernard Salick, M.D. ⁽²⁾	66	Class I Director	2005	2008
	44	Class I Director	1999	2008

W. Townsend Ziebold,
Jr.⁽²⁾⁽³⁾

Mark W. Lerner	52	Chief Financial Officer	N/A	N/A
----------------	----	-------------------------	-----	-----

6

- (1) Member of the Audit Committee of the Board
- (2) Member of the Compensation Committee of the Board
- (3) Member of the Nominating and Corporate Governance Committee of the Board

Eric A. Rose, M.D. has served as chairman of our Board of Directors and a director since our inception in 1997. Dr. Rose served as our president and chief executive officer from May 1999 until July 2002. Since 1994, Dr. Rose has been the Morris and Rose Millstein/Johnson & Johnson Professor and Chairman of the Department of Surgery at the Columbia University College of Physicians and Surgeons, and Surgeon in Chief at the Columbia Presbyterian Medical Center. Dr. Rose is a director of SIGA Technologies, Inc., a publicly-traded biotechnology company focused on the design and development of novel products for the prevention and treatment of serious infectious diseases. Dr. Rose received a B.A., *summa cum laude*, in Psychology from Columbia University and an M.D. from Columbia University College of Physicians and Surgeons.

Norman J. Barta has served as our president and chief executive officer and as a director since July 2002, and served as our chief financial officer from October 1998 until July 2004. Mr. Barta has served as our treasurer and secretary since May 1999. Mr. Barta served as our chief operating officer from October 1999 to July 2002. From 1994 to 1997, Mr. Barta provided financial planning and management for the research and development division of National Medical Care (currently a division of the Fresenius Medical Care AG), which prior to its acquisition by Fresenius, was one of the largest dialysis providers in the world. Prior to that, Mr. Barta was a consultant for Corestates Bank, where he restructured and optimized cash management and treasury areas for the bank's corporate and public-sector clients. Mr. Barta received a B.S. in Mathematics and Economics from Carnegie-Mellon University and an M.B.A. from the University of Chicago.

Lawrence J. Centella has served as a director of our company since January 2001. Mr. Centella serves as president of Renal Patient Services, LLC, a company that owns and operates dialysis centers, and has served in such capacity since June 1998. From 1997 to 1998, Mr. Centella served as executive vice president and chief operating officer of Gambro Healthcare, Inc., an integrated dialysis company that manufactures dialysis equipment, supplies dialysis equipment and operates dialysis clinics. From 1993 to 1997, Mr. Centella served as president and chief executive officer of Gambro Healthcare Patient Services, Inc. (formerly REN Corporation). Prior to that, Mr. Centella served as president of COBE Renal Care, Inc., Gambro Hospital, Inc., LADA International, Inc. and Gambro, Inc. Mr. Centella is also the founder of LADA International, Inc. Mr. Centella received a B.S. from DePaul University.

Howard Davis has served as a director of our company since September, 2004. Mr. Davis serves as Senior Vice President - Capital Markets with The Shemano Group, which served as lead underwriter in our initial public offering. From 1997 to 2003, Mr. Davis served as the executive vice president of GunnAllen Financial Inc., where he was the executive responsible for the investment banking and finance division. From 1990 to 1997, Mr. Davis served as the president and chief executive officer of Kensington Securities, Inc., a National Association of Securities Dealers, Inc. broker dealer. Prior to joining Kensington Securities, Inc. in 1990, Mr. Davis had served as the president, and, prior to that, as chief financial officer, of Numero Uno Franchise Corporation, a Los Angeles based franchisor of pizzeria and Italian restaurants. Mr. Davis is also a former instructor in franchising at California State University. Mr. Davis was a former member of the board of directors and the audit and compensation committees of Intelli-Check, Inc., a corporation which files reports pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Mr. Davis attended the University of Southern California; California State University, Northridge; and Kent State University, where he majored in Finance and Accounting.

Donald G. Drapkin has served as a director of our company since our inception in 1997. Mr. Drapkin served as our interim president, chief executive officer and treasurer from 1997 until May 1999. Mr. Drapkin has been a Director and Vice Chairman of MacAndrews & Forbes Holdings Inc. and various of its affiliates since 1987. Prior to joining MacAndrews & Forbes Holdings Inc., Mr. Drapkin was a partner in the law firm of Skadden, Arps, Slate, Meagher & Flom LLP for more than five years. Mr. Drapkin is also a director (or member of the Board of Managers, as

applicable) of the following companies which are required to file reports pursuant to the Exchange Act: Allied Security Holdings LLC, Anthracite Capital, Inc., Playboy Enterprises, Inc., Revlon, Inc., Revlon Consumer Products Corporation and SIGA Technologies, Inc.

7

William J. Fox has served as a director of our company since September 2004. Mr. Fox currently serves as President and Chief Executive Officer and a director of LQ Corporation, Inc. (since October 2004) and as President and Chief Executive Officer and a director of Dynabazaar Inc. (since December 2004). Mr. Fox is also Vice Chairman of Barington Capital Group and its affiliates. From February 1999 until October 2004, Mr. Fox served as chairman, president, chief executive officer and a director of AKI, Inc. and president, chief executive officer and a director of AKI Holdings, Inc., a marketing and interactive advertising company. Prior to that, Mr. Fox served as president of Strategic and Corporate Development for Revlon Worldwide and chief executive officer of Revlon Technologies. From 1994 to April 1999, Mr. Fox served as a director, and from 1997 to 1999, Mr. Fox served as senior executive vice president, of both Revlon Inc. and Revlon Consumer Products Corporation. For the five years ending 1999, Mr. Fox was also senior vice president of MacAndrews & Forbes Holdings, Inc. Mr. Fox served as non-executive co-chairman of the board and a director of Loehmann's Holding Inc. from October 2000 through October 2004 and has served as a vice-chairman of the board and a director of Hain Food Group, Inc.

W. Townsend Ziebold, Jr. has served as a director of our company since 1999. Since 2000, Mr. Ziebold has been president of Wasserstein Levered Venture Partners II, LLC, the venture capital affiliate of Wasserstein & Co., L.P., where Mr. Ziebold has led several of Wasserstein & Co., L.P.'s investments. Mr. Ziebold is a former director and non-executive chairman of Imax Corporation, and is a former director of Collins & Aikman Corporation and Maybelline, Inc. Mr. Ziebold received a B.A. in Economics from Trinity College and an M.B.A. from the Stanford School of Business.

Bernard Salick, M.D., has served as a director of our company since 2005. Dr. Salick is currently the Chairman and Chief Executive Officer of Salick Cardiovascular Centers, Inc., a company focused on the development and operation of out-patient cardiovascular centers. Over the last five years Dr. Salick has served as the CEO of the following companies: (i) Bentley Health Care, Inc., a company formed to build, own and operate out-patient cancer centers; (ii) Salick Group Holdings Ltd., LLC a company that conducts investment activities; (iii) Sandstone Horse Sales, LLC, a horse sales, breeding and training company; and (iv) Brighton Dialysis Associates Medical Group, who provides medical services to dialysis patients. Dr. Salick received a B.S. from Queens College and an M.D. from the University of Southern California.

Mark W. Lerner has served as our chief financial officer since March 6, 2006. Mr. Lerner served as a consultant to Pipeline Data Inc., a business services company that offers card processing services, from September 2003 until his employment by the Company. From May 2002 through June 2003, Mr. Lerner was Executive Vice President and Chief Financial Officer of Ramp, Inc., a healthcare information technology company whose stock was listed on the American Stock Exchange ("AMEX"). From September 2000 through April 2002, Mr. Lerner was the Chief Financial Officer and VP Finance and Development of Boardroom Inc., a direct marketer and publisher. Prior to joining Boardroom, Mr. Lerner had over twenty years of experience working in finance. Mr. Lerner received his MBA in Finance from Emory University and graduated from Columbia University's Executive Program.

There are no family relationships between any of our directors and executive officers.

Key Employees