

BIOMERICA INC  
Form 424B5  
December 04, 2017

**Filed Pursuant to Rule 424(b)(5)**  
**Registration No. 333-219130**

**PROSPECTUS SUPPLEMENT**

(To Prospectus dated July 20, 2017)

**\$7,000,000**

**Common Stock**

This prospectus supplement relates to the issuance and sale of up to \$7,000,000 of shares of our common stock from time to time through our sales agent, B. Riley FBR, Inc., or B. Riley FBR, the sales agent. These sales, if any, will be made pursuant to the terms of the At Market Issuance Sales Agreement, or the sales agreement, between us and the sales agent.

Our common stock is traded on the Nasdaq Capital Market, or the NASDAQ, under the symbol BMRA. On November 30, 2017, the closing sale price of our common stock on NASDAQ was \$3.44 per share. As of November 17, 2017, the aggregate market value of our outstanding common stock held by non-affiliates was approximately \$23,261,501 based on 6,497,626 shares of common stock held by non-affiliates and the last reported sale price of our common stock on such date. Pursuant to General Instruction I.B.6 of Form S-3, in no event will we sell shares pursuant to this prospectus with a value of more than one-third of the aggregate market value of our common stock held by non-affiliates in any 12-month period, so long as the aggregate market value of our common stock held by non-affiliates is less than \$75,000,000. During the 12 calendar months prior to, and including, the date of this prospectus, we have not sold any securities pursuant to General Instruction I.B.6 of Form S-3.

Sales of shares of our common stock under this prospectus supplement, if any, may be made by any method deemed to be an at the market offering as defined in Rule 415 under the Securities Act of 1933, as amended, or the Securities Act.

The sales agent is not required to sell any specific number of shares of our common stock. The sales agent has agreed to use its commercially reasonable efforts consistent with its normal trading and sales practices, on mutually agreed terms between the sales agent and us. There is no arrangement for funds to be received in any escrow, trust or similar arrangement. The sales agent will be entitled to compensation under the terms of the sales agreement at a commission

rate equal to 3.0% of the gross proceeds of the sales price of common stock that they sell. The net proceeds from any sales under this prospectus supplement will be used as described under Use of Proceeds. The proceeds we receive from sales of our common stock, if any, will depend on the number of shares actually sold and the offering price of such shares.

In connection with the sale of common stock on our behalf, B. Riley FBR will be deemed to be an underwriter within the meaning of the Securities Act, and its compensation as the sales agent will be deemed to be underwriting commissions or discounts. We have agreed to provide indemnification and contribution to B. Riley FBR with respect to certain liabilities, including liabilities under the Securities Act.

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**Investing in our securities involves a high degree of risk. You should read carefully and consider the information contained in and incorporated by reference under Risk Factors beginning on page S-5 of this prospectus, and the risk factors contained in other documents incorporated by reference.**

**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.**

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**B. Riley FBR**

The date of this prospectus supplement is December 1, 2017

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## ABOUT THIS PROSPECTUS SUPPLEMENT

This document is part of a registration statement that was filed with the Securities and Exchange Commission, or the SEC, using a shelf registration process and consists of two parts. The first part is the prospectus supplement, including the documents incorporated by reference herein, which describes the specific terms of this offering. The second part, the accompanying prospectus, including the documents incorporated by reference therein, provides more general information. In general, when we refer only to the prospectus, we are referring to both parts of this document combined. Before you invest, you should carefully read this prospectus supplement, the accompanying prospectus, all information incorporated by reference herein and therein, as well as the additional information described under the heading Where You Can Find More Information. These documents contain information you should carefully consider when deciding whether to invest in our common stock.

This prospectus supplement may add, update or change information contained in the accompanying prospectus. To the extent there is a conflict between the information contained in this prospectus supplement and the accompanying prospectus, you should rely on information contained in this prospectus supplement, provided that if any statement in, or incorporated by reference into, one of these documents is inconsistent with a statement in another document having a later date, the statement in the document having the later date modifies or supersedes the earlier statement. Any statement so modified will be deemed to constitute a part of this prospectus only as so modified, and any statement so superseded will be deemed not to constitute a part of this prospectus.

You should rely only on the information contained in this prospectus supplement, the accompanying prospectus, any document incorporated by reference herein or therein, or any free writing prospectuses we may provide to you in connection with this offering. Neither we nor the sales agent has authorized anyone to provide you with any different information. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may provide to you. The information contained in this prospectus supplement, the accompanying prospectus, and in the documents incorporated by reference herein or therein is accurate only as of the date such information is presented. Our business, financial condition, results of operations and prospects may have changed since that date.

This prospectus supplement and the accompanying prospectus do not constitute an offer to sell or the solicitation of an offer to buy any securities other than the shares of common stock to which it relates, nor do this prospectus supplement and the accompanying prospectus constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction.

Unless otherwise indicated, information contained in or incorporated by reference into this prospectus concerning our industry and the markets in which we operate, including market opportunity, market position and competitive landscape, is based on information from our management's estimates, as well as from industry publications, surveys and studies conducted by third parties. Management estimates are derived from publicly available information, our knowledge of our industry, and assumptions based on such information and knowledge, which we believe to be

reasonable. In addition, while we believe that information contained in industry publications, surveys and studies has been obtained from reliable sources, the accuracy and completeness of such information is not guaranteed, and we have not independently verified any of the data contained in these third-party sources.

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This prospectus supplement and the accompanying prospectus, and any documents incorporated by reference herein or therein, include statements that are based on various assumptions and estimates that are subject to numerous known and unknown risks and uncertainties. Some of these risks and uncertainties are described under the heading **Risk Factors** beginning on page S-5 of this prospectus supplement and in the section titled **Risk Factors** in our most recent Annual Report on Form 10-K, which is incorporated by reference into the prospectus. These and other important factors could cause our future results to be materially different from the results expected as a result of, or implied by, these assumptions and estimates. You should read the information contained in this prospectus supplement and the accompanying prospectus, and the documents incorporated by reference herein and therein, completely and with the understanding that future results may be materially different and worse from what we expect. See the information included under the heading **Note Regarding Forward-Looking Statements**.

Securities offered pursuant to the registration statement to which this prospectus supplement relates may only be offered and sold if not more than three years have elapsed since July 20, 2017, the initial effective date of the registration statement, subject to the extension of this period in compliance with applicable SEC rules.

We note that the representations, warranties and covenants made by us in any agreement that is filed as an exhibit to any document that is incorporated by reference herein were made solely for the benefit of the parties to such agreement, including, in some cases, for the purpose of allocating risk among the parties to such agreement, and should not be deemed to be a representation, warranty or covenant to you. Moreover, such representations, warranties or covenants were accurate only as of the date when made. Accordingly, such representations, warranties and covenants should not be relied on as accurately representing the current state of our affairs.

Unless otherwise indicated or the context otherwise requires, the terms **Company**, **Biomerica**, **we**, **us** and **our** refer to Biomerica, Inc., a Delaware corporation, and its predecessors and consolidated subsidiaries.

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## **PROSPECTUS SUPPLEMENT SUMMARY**

*The following is a summary of selected information contained elsewhere or incorporated by reference. It does not contain all of the information that you should consider before buying our securities. You should read this prospectus in its entirety, including the information incorporated by reference herein and therein.*

### **Company Overview**

We are a medical device company that develops, manufactures, and markets medical diagnostic products designed for the early detection and monitoring of chronic diseases and medical conditions. Our medical diagnostic products are sold worldwide in two markets: 1) clinical laboratories and 2) point of care (physicians' offices and over-the-counter

drugstores). Our diagnostic test kits are used to analyze blood, urine, or fecal specimens from patients in the diagnosis of various diseases and other medical complications, or to measure the level of specific hormones, antibodies, antigens or other substances, which may exist in the human body in extremely small concentrations.

We primarily focus on products for gastrointestinal diseases, food intolerances, diabetes and esoteric tests. These diagnostic test products utilize immunoassay technology. Some of these products have not yet been submitted for clearance by the Food and Drug Administration, or FDA, or each country's equivalent for diagnostic use, but can still be sold in various foreign countries for research use without this approval.

Technological advances in medical diagnostics have made it possible to perform diagnostic tests within the home and the physician's office (the point of care), rather than in the clinical laboratory. One of our objectives has been to develop and market rapid diagnostic tests that are accurate, employ easily obtained specimens, and are simple to perform without instrumentation. Our over-the-counter and professional rapid diagnostic products help to manage existing medical conditions and may save lives through early detection and prompt diagnosis. In the past, tests of this kind required the services of medical technologists and sophisticated instrumentation. Frequently, results were not available until at least the following day. We believe that rapid point of care tests can be as accurate as laboratory tests when used properly, require no instrumentation, give reliable results in minutes and can be performed with confidence in the home or the physician's office.

We maintain our headquarters in Irvine, California where we house administration, product development, sales and marketing, customer services and some manufacturing operations. A part of our manufacturing and assembly operations is located in Mexicali, Mexico, in order to reduce the cost of manufacturing and compete more effectively worldwide. We have established wholly owned subsidiaries in both Mexico and Germany. We expend considerable funds in the effort to ready certain new products for market (both internally developed and licensed from others). We utilize technical personnel to conduct product improvement and technical transfer development activities, as well as explore potential new technologies that we may wish to develop. We are currently pursuing the development of two tests for the gastrointestinal market.

## **Corporate Information**

Biomerica was originally incorporated in Delaware in September 1971. We also have two wholly owned subsidiaries, Biomerica de Mexico, which is used as a maquiladora, and BioEurope GmbH, which acts as a distributor of Biomerica products in certain markets. Our principal executive offices are located at 17571 Von Karman Avenue, Irvine, California 92614, and our telephone number is (949) 645-2111. Our corporate website address is [www.biomerica.com](http://www.biomerica.com). Information contained on or accessible through our website is not a part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

## The Offering

*The following summary contains basic information about our common stock and the offering and is not intended to be complete. It does not contain all of the information that may be important to you. For a more complete understanding of our common stock, you should read the section entitled Description of Capital Stock.*

<b>Issuer</b>	Biomerica, Inc.
<b>Common stock offered</b>	Shares of our common stock having an aggregate offering price of up to \$7 million.
<b>Manner of offering</b>	At the market offering that may be made from time to time through our sales agent, B. Riley FBR, Inc. See Plan of Distribution beginning on page S-12 of this prospectus.
<b>Common stock to be outstanding after this offering<sup>(1)</sup></b>	Up to 10,547,056 shares, assuming sales price at a price of \$3.44 per share, which was the closing price of our common stock on the NASDAQ on November 30, 2017. The actual number of shares issued will vary depending on the sales price under this offering.
<b>Risk Factors</b>	Your investment in our common stock involves substantial risks. You should read carefully the Risk Factors included and incorporated by reference in this prospectus, including the risk factors incorporated by reference from our filings with the SEC.
<b>NASDAQ symbol</b>	BMRA
<b>Use of Proceeds</b>	We intend to use the net proceeds from this offering, if any, for general corporate purposes, including, without limitation, sales and marketing activities, clinical studies and product development, making acquisitions of assets, businesses, companies or securities, capital expenditures, and for working capital needs. See Use of Proceeds beginning on page S-8 of this prospectus.

<sup>(1)</sup> The common stock outstanding after the offering is based on approximately 8,512,173 shares of our common stock outstanding as of August 31, 2017 and the sale of 2,034,883 shares of our common stock at an assumed offering price of \$3.44 per share, the last reported sale price of our common stock on the NASDAQ on November 30, 2017, and excludes the following:

945,000 shares of our common stock issuable upon the exercise of options outstanding as of August 31, 2017, having a weighted average exercise price of \$1.06 per share;

8,250 shares of our common stock reserved for future issuance as of August 31, 2017 under our 2010 Stock Incentive Plan;

86,250 shares of our common stock reserved for future issuance as of August 31, 2017 under our 2014 Stock Incentive Plan; and

900,000 shares of our common stock reserved for future issuance under our 2017 Stock Incentive Plan, adopted September 20, 2017, subject to stockholder approval.

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## **RISK FACTORS**

*Before making an investment decision, you should carefully consider the risks described below and discussed in the section titled "Risk Factors" in our most recent Annual Report on Form 10-K, as well as the risks, uncertainties and additional information set forth in our SEC reports on Forms 10-K, 10-Q and 8-K and in other documents incorporated by reference in this prospectus. We expect to update these Risk Factors from time to time in the periodic and current reports that we file with the SEC after the date of this prospectus. These updated Risk Factors will be incorporated by reference in this prospectus.*

*Our business, financial condition or results of operations could be materially adversely affected by any of these risks. The trading price of our common stock could decline due to any of these risks, and you may lose all or part of your investment. The risks and uncertainties we have described are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business, financial condition, results of operations and prospects. Certain statements below are forward-looking statements. See the information included under the heading "Note Regarding Forward-Looking Statements."*

### **Risks Related to This Offering**

*You may experience immediate and substantial dilution.*

The offering price per share in this offering may exceed the net tangible book value per share of our common stock. Assuming that an aggregate of 2,034,883 shares of our common stock are sold at a price of \$3.44 per share pursuant to this prospectus which was the last reported sale price of our common stock on the NASDAQ on November 30, 2017, for aggregate gross proceeds of \$6,725,000 after deducting commissions and estimated aggregate offering expenses payable by us, you would experience immediate dilution of \$2.41 per share, representing a difference between our as adjusted net tangible book value per share as of August 31, 2017 after giving effect to this offering and the assumed offering price. The exercise of outstanding stock options and warrants may result in further dilution of your investment. See the section entitled "Dilution" on page S-9 of this prospectus for a more detailed illustration of the

dilution you would incur if you participate in this offering.

***Management will have broad discretion as to the use of the proceeds from this offering and may not use the proceeds effectively.***

Because we have not designated the amount of net proceeds from this offering to be used for any particular purpose, our management will have broad discretion as to the application of the net proceeds from this offering and could use them for purposes other than those contemplated at the time of the offering. Our management may use the net proceeds for corporate purposes that may not improve our financial condition or market value.

***Future sales of substantial amounts of our common stock, or the possibility that such sales could occur, could adversely affect the market price of our common stock.***

We may issue up to \$7 million of common stock from time to time in this offering. The issuance from time to time of shares in this offering, as well as our ability to issue such shares in this offering, could have the effect of depressing the market price or increasing the market price volatility of our common stock. See **Plan of Distribution** on page S-12 of this prospectus for more information about the possible adverse effects of our sales under the sales agreement.

***It is not possible to predict the actual number of shares we will sell under the At Market Issuance Sales Agreement, or the gross proceeds resulting from those sales.***

Subject to certain limitations in the At Market Issuance Sales Agreement and compliance with applicable law, we have the discretion to deliver a placement notice to the sales agent at any time throughout the term of the At Market Issuance Sales Agreement. The number of shares that are sold through the sales agent after delivering a placement notice will fluctuate based on a number of factors, including the market price of the common stock during the sales period, the limits we set with the sales agent in any applicable placement notice, and the demand for our common stock during the sales period. Because the price per share of each share sold will fluctuate during the sales period, it is not currently possible to predict the number of shares that will be sold or the gross proceeds to be raised in connection with those sales.

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***The common stock offered hereby will be sold in at the market offerings, and investors who buy shares at different times will likely pay different prices.***



Investors who purchase shares in this offering at different times will likely pay different prices, and so may experience different levels of dilution and different outcomes in their investment results. We will have discretion, subject to market demand, to vary the timing, prices, and numbers of shares sold in this offering. In addition, there is no minimum or maximum sales price for shares to be sold in this offering. Investors may experience a decline in the value of the shares they purchase in this offering as a result of sales made at prices lower than the prices they paid.

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**NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus and the documents incorporated by reference into this prospectus contain certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, in reliance upon the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Forward-looking statements include, without limitation, statements regarding the success, safety and efficacy of our products, product approvals, product sales, revenues, development timelines, product acquisitions, liquidity and capital resources and trends, and other statements containing forward-looking words, such as, believes, may, could, would, will, expects, intends, anticipates, plans, seeks, or continues or the negative thereof or variation thereon or similar terminology (although all forward-looking statements contain these words). Such forward-looking statements are based on the beliefs of our management as well as assumptions made by and information currently available to our management. Readers should not put undue reliance on these forward-looking statements. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified; therefore, our actual results may differ materially from those described in any forward-looking statements. The risks and uncertainties include those noted in our SEC filings or any applicable prospectus supplement.

We urge you to consider these factors carefully in evaluating the forward-looking statements contained in this prospectus and any prospectus supplement. All subsequent written or oral forward-looking statements attributable to our company or persons acting on our behalf are expressly qualified in their entirety by these cautionary statements. The forward-looking statements included in this prospectus are made only as of the date of this prospectus. We undertake no obligation to update publicly any forward-looking statements, whether as a result of new information, future events or otherwise, except to the extent that we are required to do so by law.

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**USE OF PROCEEDS**

The amount of proceeds from this offering will depend upon the number of shares of our common stock sold and the market price at which they are sold. There can be no assurance that we will be able to sell any shares under or fully utilize the sales agreement with B. Riley FBR.

We intend to use the net proceeds from this offering, if any, for general corporate purposes, including, without limitation, sales and marketing activities, clinical studies and product development, making acquisitions of assets, businesses, companies or securities, capital expenditures, and for working capital needs. We may temporarily invest the net proceeds in short-term, interest-bearing instruments or other investment-grade securities. We have not determined the amount of net proceeds to be used specifically for such purposes. As a result, management will retain broad discretion over the allocation of net proceeds.

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**DILUTION**

If you invest in our common stock, your ownership interest will be diluted to the extent of the difference between the public offering price per share and the as-adjusted net tangible book value per share after this offering. Our net tangible book value of our common stock on August 31, 2017 was approximately \$4,129,804, or approximately \$0.49 per share of common stock based on 8,512,173 shares outstanding. We calculate net tangible book value per share by dividing the net tangible book value, which is tangible assets less total liabilities, by the number of outstanding shares of our common stock.

After giving effect to the sale of our common stock pursuant to this prospectus in the aggregate amount of \$7 million at an assumed offering price of \$3.44 per share, the last reported sale price of our common stock on the NASDAQ on November 30, 2017, and after deducting commissions and estimated aggregate offering expenses payable by us, our net tangible book value as of August 31, 2017 would have been \$10,854,804, or \$1.03 per share of common stock. This represents an immediate increase in the net tangible book value of \$0.54 per share to our existing stockholders and an immediate dilution in net tangible book value of \$2.41 per share to new investors. The following table illustrates this per share dilution:

Assumed offering price per share		\$	3.44
Net tangible book value per share as of August 31, 2017	\$	0.49	
Increase in net tangible book value per share after this offering	\$	0.54	
As-adjusted net tangible book value per share after this offering		\$	1.03
Dilution per share to new investors in this offering		\$	2.41

The above discussion and table are based on approximately 8,512,173 shares of our common stock outstanding as of August 31, 2017 and excludes the following:

945,000 shares of our common stock issuable upon the exercise of options outstanding as of August 31, 2017, having a weighted average exercise price of \$1.06 per share;

8,250 shares of our common stock reserved for future issuance as of August 31, 2017 under our 2010 Stock Incentive Plan;

86,250 shares of our common stock reserved for future issuance as of August 31, 2017 under our 2014 Stock Incentive Plan; and

900,000 shares of our common stock reserved for future issuance under our 2017 Stock Incentive Plan, adopted September 20, 2017, subject to stockholder approval.

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**PRICE RANGE OF COMMON STOCK**

Our common stock is listed on the NASDAQ under the symbol BMRA. The following table shows the high and low intraday per share sale prices of our common stock for the periods indicated.

	<b>High</b>	<b>Low</b>
<b>Fiscal Year Ending May 31, 2018:</b>		
First Quarter	\$ 2.90	\$ 2.30
Second Quarter as of November 30, 2017	\$ 3.85	\$ 2.62
<b>Fiscal Year Ended May 31, 2017:</b>		
First Quarter	\$ 3.38	\$ 1.41
Second Quarter	\$ 3.00	\$ 1.53
Third Quarter	\$ 2.99	\$ 1.92
Fourth Quarter	\$ 2.75	\$ 1.93
<b>Fiscal Year Ended May 31, 2016:</b>		
First Quarter	\$ 1.44	\$ 0.72
Second Quarter	\$ 0.95	\$ 0.77
Third Quarter	\$ 1.50	\$ 0.85