

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): December 16, 2021**

**Progenity, Inc.**

(Exact name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction  
of Incorporation)

**001-39334**  
(Commission File Number)

**27-3950390**  
(IRS Employer  
Identification No.)

**4330 La Jolla Village Drive, Suite 200**  
**San Diego, California**  
(Address of Principal Executive Offices)

**92122**  
(Zip Code)

**Registrant's Telephone Number, Including Area Code: (855) 293-2639**

**N/A**

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Securities registered pursuant to Section 12(b) of the Act:**

<b>Title of each class</b>	<b>Trading Symbol(s)</b>	<b>Name of each exchange on which registered</b>
Common Stock, par value \$0.001 per share	PROG	The Nasdaq Global Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company

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 13(a) of the Exchange Act.

### **Item 1.01 Entry into Material Definitive Agreement.**

The information required by this Item 1.01 is set forth in Item 2.01 below, which is incorporated herein by reference.

### **Item 2.01 Completion of Acquisition or Disposition of Assets.**

On December 16, 2021, Progenity, Inc. (“the Company”), entered into an asset purchase agreement (the “Purchase Agreement”), by and among the Company, Northwest Pathology, P.S., (“Northwest Pathology”), Avero Laboratory Holdings LLC (“Avero”), Mattison Pathology, L.L.P. d/b/a Avero Diagnostics, (“Mattison,” and, together with Avero, collectively, the “Sellers”), pursuant to which Northwest Pathology acquired business of the Sellers, which is primarily focused on anatomic and molecular pathology testing services (the “Business”), and assumed certain specified liabilities of the Sellers, as set forth in the Purchase Agreement, for a purchase price of approximately \$10.9 million in cash, subject to certain adjustments in relation to the post-closing conveyance of real property (collectively, the “Transaction”). The Purchase Agreement also contains representations and warranties, other covenants, indemnification obligations, and other provisions customary for transactions of this nature.

The assets sold include substantially all of the assets used in the Business, including the clinical laboratories in Lubbock and Irving, Texas and certain fixed assets, inventories, contracts, permits and intellectual property.

The Transaction results in annual operating expense reduction of approximately \$28 million, bringing the total reduction in annual operating expenses to approximately \$145 million compared to the second quarter. This reduction, along with capital raises, should extend the Company's cash runway beyond the end of 2022.

On December 20, 2021, the Company issued a press release announcing the Transaction. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

The foregoing description of the Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Purchase Agreement, a copy of which will be filed as an exhibit to the Company's Annual Report on Form 10-K for the year ending December 31, 2021, and the full text of which is incorporated herein by reference.

### **Forward-looking Statements**

This report contains forward-looking statements. Forward-looking statements include, but are not limited to, statements that express the Company's intentions, beliefs, expectations, strategies, predictions or any other statements related to the Company's future activities, or future events or conditions, including those relating to the Transaction and the reduction in operating expenses. These statements are based on current expectations, estimates and projections about the Company's business based, in part, on assumptions made by management. These statements are not guarantees of future performance and involve risks, uncertainties and assumptions that are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in the forward-looking statements due to numerous factors, including those risks discussed in the Company's Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on March 18, 2021, and in other documents that the Company files from time to time with the Commission, including but not limited to its Quarterly Reports on Form 10-Q. Any forward-looking statements speak only as of the date on which they are made, and the Company does not undertake any obligation to update any forward-looking statement to reflect events or circumstances after the date of this report, except as required by law.

### **Item 9.01 Financial Statements and Exhibits.**

#### **(b) Pro Forma Financial Information**

The unaudited pro forma condensed consolidated financial information of the Company giving effect to the Transaction is filed as Exhibit 99.2 hereto and is incorporated herein by reference.

#### **(d) Exhibits.**

99.1 [Press release, dated December 20, 2021](#)

99.2 [Unaudited Pro Forma Condensed Consolidated Financial Statements of Progenity](#)

104 Cover Page Interactive Data File (embedded with the Inline XBRL document)

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Progenity, Inc.

Date: December 20, 2021

By: /s/ Eric d'Esparbes  
Eric d'Esparbes  
Chief Financial Officer

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## **Progenity Completes Exit from Laboratory Business with Sale of Affiliate Lab**

### ***Transaction Adds Cash to Balance Sheet and Further Reduces Operating Expenses***

**SAN DIEGO** – December 20, 2021 – Progenity, Inc. (Nasdaq: PROG), a biotechnology company innovating in the field of oral biotherapeutics for gastrointestinal health and beyond, today announced it has successfully closed the business divestiture of its affiliate Avero Diagnostics through an asset sale to Northwest Pathology.

“The sale of our Avero Diagnostics affiliate results in a further annual operating expense reduction of approximately \$28 million, bringing the total reduction in annual operating expenses to approximately \$145 million compared to the second quarter. This reduction, along with capital raised, should extend our cash runway beyond the end of 2022 and reduce our dependency on the capital markets,” said Eric d’Esparbes, Chief Financial Officer of Progenity.

The purchase price was \$10.9 million, subject to certain customary adjustments as set forth in the purchase agreement.

“This is one of the final steps in our strategic plan to materially reduce our cash burn,” said Adi Mohanty, Chief Executive Officer. “Completing this transaction is important to us as we focus on delivering on our biotherapeutics pipeline. We are pleased that Northwest Pathology will be retaining more than 90% of Avero employees, and we look forward to a smooth transition for the business.”

#### **About Progenity**

Progenity, Inc. is a biotechnology company innovating in the fields of women’s health, gastrointestinal health and oral biotherapeutics. Progenity applies a multi-omics approach, combining genomics, epigenomics, proteomics, and metabolomics to its molecular testing products and to the development of a suite of investigational ingestible devices designed to provide precise diagnostic sampling and drug delivery solutions. Progenity’s vision is to transform healthcare to become more precise and personal by improving diagnoses of disease and improving patient outcomes through localized treatment with targeted therapies.

For more information visit [www.progenity.com](http://www.progenity.com), or follow the company on LinkedIn or Twitter.

#### **Forward Looking Statements**

This press release contains “forward-looking statements,” which statements are subject to substantial risks and uncertainties and are based on estimates and assumptions. All statements, other than statements of historical facts, included in this press release are forward-looking statements. In some cases, you can identify forward-looking statements by terms such as “may,” “might,” “will,” “objective,” “intend,” “should,” “could,” “can,” “would,” “expect,” “believe,” “design,” “estimate,” “predict,” “potential,” “develop,” “plan” or the negative of these terms, and similar expressions, or statements regarding intent, belief, or current expectations, are forward looking statements. These statements involve known and unknown risks, uncertainties and other factors that could cause Progenity’s actual results to differ materially from the forward-looking statements expressed or implied in this press release, including Progenity’s ability to successfully complete its strategic transformation and to successfully develop and commercialize its products under development, the uncertainties inherent in the development process, such as the regulatory approval process, the timing of regulatory filings, the

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ability to identify potential partners and other matters, including the ongoing COVID-19 pandemic, that could affect sufficiency of existing cash, cash equivalents and short-term investments to fund operations and the availability or commercial potential of Progenity's products, and those risks described in "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Progenity's Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on March 18, 2021, and other subsequent documents we file with the SEC, including but not limited to Progenity's Quarterly Reports on Form 10-Q. Progenity claims the protection of the Safe Harbor contained in the Private Securities Litigation Reform Act of 1995 for forward-looking statements. Progenity expressly disclaims any obligation to update or alter any statements whether as a result of new information, future events or otherwise, except as required by law.

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### Progenity Unaudited Pro Forma Condensed Consolidated Financial Information

SAN DIEGO, December 20, 2021 – Progenity, Inc. (Nasdaq: PROG), a biotechnology company innovating in the field of oral biotherapeutics for gastrointestinal health and beyond, closed the divestiture of its affiliate Avero Diagnostics (“Avero”) through an asset sale to Northwest Pathology. Beginning in the second quarter of 2021, Avero’s historical financial results for periods prior to the divestiture will be reflected in Progenity’s condensed consolidated financial statements as discontinued operations.

The following unaudited pro forma condensed consolidated statement of income of Progenity for the year ended December 31, 2020 is presented as if the divestiture had occurred as of January 1, 2020 and gives effect to the elimination of the historical Avero financial results due to the divestiture. The following unaudited pro forma condensed consolidated statements of income of Progenity for the year ended December 31, 2019 only gives effect to the elimination of the historical Avero financial results as if the divestiture had occurred as of January 1, 2019. The unaudited pro forma condensed consolidated balance sheet as of September 30, 2021 is presented as if the divestiture had occurred as of September 30, 2021.

The following pro forma financial statements are based on information currently available, including certain assumptions and estimates. They are intended for informational purposes only, and do not purport to represent what Progenity’s financial position and results of operations actually would have been had the divestiture occurred on the dates indicated, or to project Progenity’s financial position or results of operations for any future date or period.

The information in the “Historical” columns in the unaudited pro forma condensed consolidated statements of income and the unaudited pro forma condensed consolidated balance sheet was derived from Progenity’s historical consolidated financial statements for the periods and as of the date presented and does not reflect any adjustments related to the divestiture and related events. The following unaudited pro forma condensed consolidated financial statements have been derived from Progenity’s historical consolidated financial statements as of and for each of the two years ended December 31, 2020, and as of and for the nine-month period ended September 30, 2021. The unaudited pro forma condensed consolidated financial statements and the accompanying notes should be read in conjunction with the audited consolidated financial statements, the accompanying notes and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in Progenity’s Annual Report on Form 10-K for the year ended December 31, 2020.

The information in the “Avero Divestiture” columns in the unaudited pro forma condensed consolidated statements of income and the unaudited pro forma condensed consolidated balance sheet has been prepared in accordance with the discontinued operations guidance in Accounting Standards Codification 205, “Financial Statement Presentation” and therefore does not reflect what Avero’s results of operations would have been on a stand-alone basis and are not necessarily indicative of Avero’s future results of operations.

In June 2021, the Company announced its plan to reallocate resources to research and development to better position the business for future growth. The plan included the closure of the Progenity genetics laboratory in Ann Arbor, Michigan and the divestiture of Avero. The Company stopped providing genetic laboratory-developed test services in its Ann Arbor, Michigan laboratory as of June 30, 2021. The adjustments to reflect the closure of the Progenity genetics laboratory are included in the “Transaction Accounting Adjustments” column in the unaudited pro forma condensed consolidated statements of income, see the accompanying notes.

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**Progenity, Inc.**  
**Pro Forma Condensed Consolidated Balance Sheet**  
**As of September 30, 2021**  
**(Unaudited)**  
**(In thousands)**

	Historical	Avero Divestiture	Pro Forma Progenity
<b>Assets</b>			
Current assets:			
Cash and cash equivalents	\$ 54,136	\$ 8,437 (a)	\$ 62,573
Accounts receivable, net	1,917		1,917
Prepaid expenses and other current assets	10,372		10,372
Current assets of disposal group held for sale	26,545	(23,214)	3,331
<b>Total current assets</b>	<b>92,970</b>	<b>(14,777)</b>	<b>78,193</b>
Property and equipment, net	4,564		4,564
Other assets	147		147
<b>Total assets</b>	<b>\$ 97,681</b>	<b>\$ (14,777)</b>	<b>\$ 82,904</b>
<b>Liabilities and Stockholders' Deficit</b>			
Current liabilities:			
Accounts payable	7,989		7,989
Accrued expenses and other current liabilities	40,850		40,850
Warranty Liability	42,402		42,402
Current portion of mortgages payable	75		75
Current portion of capital lease obligations	35		35
Current liabilities of disposal group held for sale	11,922	(1,831)	10,091
<b>Total current liabilities</b>	<b>103,273</b>	<b>(1,831)</b>	<b>101,442</b>
Mortgages payable, net of current portion	1,219		1,219
Convertible notes, net of unamortized discount of \$8,255	156,045		156,045
Other long-term liabilities	14,110		14,110
<b>Total liabilities</b>	<b>\$ 274,647</b>	<b>\$ (1,831)</b>	<b>\$ 272,816</b>
Commitments and contingencies			
Stockholders' deficit:			
Common stock – \$0.001 par value. 350,000,000 shares authorized; 123,279,683 shares issued; 119,567,684 shares outstanding	83		83
Additional paid-in capital	537,548		537,548
Accumulated deficit	(695,813)	(12,946) (b)	(708,759)
Treasury stock – at cost; 3,711,999 shares of common stock	(18,784)		(18,784)
<b>Total stockholders' deficit</b>	<b>(176,966)</b>	<b>(12,946)</b>	<b>(189,912)</b>
<b>Total liabilities and stockholders' deficit</b>	<b>\$ 97,681</b>	<b>\$ (14,777)</b>	<b>\$ 82,904</b>

**Progenity, Inc.**  
**Pro Forma Condensed Consolidated Statements of Operations**  
**Nine Months Ended September 30, 2021**  
**(Unaudited)**  
*(In thousands, except share and per share amounts)*

	Historical	Avero Divestiture	Pro Forma Progenity
Revenues	\$ 812		\$ 812
Cost of sales	-		-
Gross profit	812	-	812
Operating expenses:			
Research and development	37,300	-	37,300
Selling and marketing	4,437		4,437
General and administrative	56,753		56,753
Total operating expenses	98,490	-	98,490
Loss from operations	(97,678)	-	(97,678)
Interest expense	(10,450)		(10,450)
Loss on warrant liability	(5,818)		(5,818)
Interest and other income, net	18,211	-	18,211
Loss before income taxes	(95,735)	-	(95,735)
Income tax benefit	-		-
Loss from continuing operations	(95,735)	-	(95,735)
Loss from discontinued operations	(58,804)	13,629	(45,175)
Net loss	\$ (154,539)	\$ 13,629	\$ (140,910)
Net loss per share attributable to common stockholders, basic and diluted	\$ (2.13)		\$ (1.94)
Weighted average number of shares outstanding, basic and diluted	72,590,873		72,590,873

**Progenity, Inc.**  
**Pro Forma Condensed Consolidated Statements of Operations**  
**Year Ended December 31, 2020**  
**(Unaudited)**  
*(In thousands, except share and per share amounts)*

	Historical	Avero Divestiture	Transaction Accounting Adjustments (c)	Pro Forma Progenity
Revenues	\$ 74,313	\$ (40,370)	\$ (33,781)	\$ 162
Cost of sales	93,433	(34,758)	(58,675)	—
Gross (loss) profit	(19,120)	(5,612)	24,894	162
Operating expenses:				
Research and development	47,743	—	—	47,743
Selling and marketing	52,887	(9,036)	(37,902)	5,949
General and administrative	75,438	(8,010)	(10,780)	56,648
Total operating expenses	176,068	(17,046)	(48,682)	110,340
Loss from operations	(195,188)	11,434	73,576	(110,178)
Interest expense	(9,984)	69		(9,915)
Interest and other expense, net	(24,888)	(196)		(25,084)
Loss before income taxes	(230,060)	11,307	73,576	(145,177)
Income tax benefit	(37,532)			(37,532)
Loss from continuing operations	(192,528)	11,307	73,576	(107,645)
Loss from discontinued operations	—		(73,576)	(73,576)
Net loss	(192,528)	11,307	—	(181,221)
Dividend paid to preferred stockholders	(268)			(268)
Net loss attributable to common stockholders	\$ (192,796)	\$ 11,307	\$ -	\$ (181,489)
Net loss per share attributable to common stockholders, basic and diluted	\$ (7.01)			\$ (6.60)
Weighted average shares outstanding, basic and diluted	27,512,876			27,512,876

**Progenity, Inc.**  
**Pro Forma Condensed Consolidated Statements of Operations**  
**Year Ended December 31, 2019**  
**(Unaudited)**  
*(In thousands, except share and per share amounts)*

	Historical	Avero Divestiture	Transaction Accounting Adjustments (c)	Pro Forma Progenity
Revenues	\$ 143,985	\$ (41,231)	\$ (102,754)	\$ —
Cost of sales	100,492	(30,539)	(69,953)	—
Gross profit (loss)	43,493	(10,692)	(32,801)	—
Operating expenses:				
Research and development	63,400	(28)		63,372
Selling and marketing	58,888	(6,825)	(44,214)	7,849
General and administrative	61,324	(7,106)	(8,001)	46,217
Total operating expenses	183,612	(13,959)	(52,215)	117,438
Loss from operations	(140,119)	3,267	19,414	(117,438)
Interest expense	(9,199)	(120)		(9,319)
Interest and other income, net	575	1		576
Loss before income taxes	(148,743)	3,148	19,414	(126,181)
Income tax benefit	(706)			(706)
Loss from continuing operations	(148,037)	3,148	19,414	(125,475)
Loss from discontinued operations	—	—	(19,414)	(19,414)
Net loss	(148,037)	3,148	—	(144,889)
Dividend paid to preferred stockholders	(3,652)			(3,652)
Stock dividend on exchange of Series A-1 to Series B Preferred Stock	(27,637)			(27,637)
Stock dividend on Series B Preferred Stock	(49,501)			(49,501)
Net loss attributable to common stockholders	\$ (228,827)	\$ 3,148	\$ -	\$ (225,679)
Net loss per share attributable to common stockholders, basic and diluted	\$ (46.87)			\$ (46.22)
Weighted average shares outstanding, basic and diluted	4,882,662			4,882,662

**Progenity, Inc.**  
**Pro Forma Condensed Consolidated Financial Information**  
**(Unaudited)**

**Notes to the Unaudited Pro Forma Condensed Consolidated Financial Statements**

- a) Adjustment represents cash consideration from the sale of Avero for \$10.9 million, less transaction costs of \$2.5 million.
- b) Adjustment represents the loss on the Sale Transaction assuming the Company had completed the sale as of September 30, 2021 is as follows (in thousands):

Net cash proceeds	\$ 10,887
Net assets sold	(21,209)
Adjustment for transaction costs	<u>(2,450)</u>
Loss on sale	\$ (12,946)

The loss is only reflected in retained earnings on the unaudited pro forma condensed consolidated balance sheet as of September 30, 2021. The actual loss on the sale of Avero will likely be different from the amount above due to a difference in (i) asset and liability balances at the date the Sale Transaction closes, (ii) certain working capital adjustments, (iii) the actual Sale Transaction costs used in determining the net cash proceeds from the Sale Transaction.

- c) As presented within the Q2 2021 10-Q filed on August 12, 2021, in order to refocus efforts and resources on the Company's research and development pipeline, in June 2021, the Company announced a strategic transformation that included the closure of the Progenity genetics lab in Ann Arbor, Michigan. These adjustments are to re-classify the operations related to the Progenity genetics lab from continuing operations to discontinued operations for the annual periods ending December 31, 2020 and December 31, 2019.
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