

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Outlook Therapeutics, Inc.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of Incorporation or organization)

38-3982704
(I.R.S. Employer Identification No.)

4260 U.S. Route One
Monmouth Junction, New Jersey
(Address of principal executive offices)

08852
(Zip code)

2015 Equity Incentive Plan
2016 Employee Stock Purchase Plan
(Full title of the plan)

Lawrence A. Kenyon
President, Chief Executive Officer and Chief Financial Officer
Outlook Therapeutics, Inc.
4260 U.S. Route One
Monmouth Junction, New Jersey 08852
(Name and address of agent for service)

(609) 619-3990
(Telephone number, including area code, of agent for service)

Copies to:
Yvan-Claude Pierre
Marianne C. Sarrazin
Yoon-jee Kim
Cooley LLP
55 Hudson Yards
New York, New York 10001
(212) 479-6000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered⁽¹⁾	Proposed Maximum Offering Price per Share⁽⁴⁾	Proposed Maximum Aggregate Offering Price⁽⁴⁾	Amount of Registration Fee
Common Stock, par value \$0.01 per share, reserved for issuance pursuant to the 2015 Equity Incentive Plan, as amended	23,815,493 ⁽²⁾	\$ 2.115	\$ 50,369,768	\$ 5,495.34
Common Stock, par value \$0.01 per share, reserved for issuance pursuant to the 2016 Employee Stock Purchase Plan	220,000 ⁽³⁾	\$ 2.115	\$ 465,300	\$ 50.77
Total:	24,035,493	\$ 2.115	\$ 50,835,068	\$ 5,546.11

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the “**Securities Act**”), this Registration Statement shall also cover any additional shares of common stock, par value \$0.01 (the “**Common Stock**”) of Outlook Therapeutics, Inc. (the “**Registrant**”), that become issuable under the above-mentioned plans, set forth herein by reason of any stock dividend, stock split, recapitalization or other similar transaction effected that results in an increase to the number of outstanding shares of Common Stock.
- (2) Represents 23,815,493 shares of Common Stock reserved for future issuance under the 2015 Equity Incentive Plan, as amended (the “**2015 EIP**”) by reason of the amendment of the 2015 EIP approved by the Registrant’s stockholders on September 17, 2020 and the automatic increase provision of the 2015 EIP. The number of shares of Common Stock reserved for issuance under the 2015 EIP automatically increases on January 1st each year, starting on January 1, 2017 and continuing through January 1, 2025, by the lesser of (A) 3% of the total number of shares of Common Stock outstanding on December 31st of the immediately preceding calendar year and (B) a number determined by the Registrant’s board of directors.
- (3) Represents 220,000 shares of Common Stock reserved for issuance under the 2016 Employee Stock Purchase Plan (the “**2016 ESPP**”). The number of shares reserved for issuance under the 2016 ESPP automatically increases on January 1st each year, starting on January 1, 2017 and continuing through January 1, 2026, by the lesser of (i) 1% of the total number of shares of Common Stock outstanding on December 31st of the preceding calendar year, (ii) 220,000 shares of Common Stock and (iii) a number determined by the Registrant’s board of directors.
- (4) Estimated in accordance with Rule 457(c) and 457(h) under the Securities Act solely for the purpose of calculating the registration fee on the basis of the average of the high (\$2.31) and low (\$1.92) sale prices of the Registrant’s Common Stock as reported on The Nasdaq Capital Market on March 25, 2021, which is a date within five business days prior to filing this Registration Statement.
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EXPLANATORY NOTE

The Registrant is filing this registration statement on Form S-8 (the “**Registration Statement**”) for the purpose of registering additional 23,815,493 shares of its Common Stock issuable to eligible persons under the 2015 EIP, and additional 220,000 shares of its Common Stock issuable to eligible persons under the 2016 ESPP, which Common Stock is in addition to the shares of Common Stock registered on the Registrant’s Form S-8s filed on May 13, 2016 (File No. 333-211362), February 15, 2017 (File No. 333-216081), February 15, 2018 (File No. 333-223064), February 14, 2019 (File No. 333-229685), September 30, 2019 (File No. 333-234024) and February 14, 2020 (File No. 333-236471) (the “**Prior Form S-8s**”).

PART II

ITEM 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

Pursuant to General Instruction E to Form S-8, the contents of the Prior Form S-8s filed by the Registrant are incorporated by reference herein. In addition, the following documents filed by the Registrant with the Securities and Exchange Commission (“**SEC**”) are incorporated by reference into this Registration Statement:

- (a) The Registrant’s latest annual report on Form 10-K, filed with the SEC on [December 23, 2020](#), and amended on [January 28, 2021](#) (the “**2020 Form 10-K**”);
 - (b) The Registrant’s quarterly report on Form 10-Q, filed with the SEC on [February 16, 2021](#);
 - (c) The Registrant’s current reports on Form 8-K, filed with the SEC on [October 9, 2020](#), [November 6, 2020](#), [February 2, 2021](#), [February 11, 2021](#) and [March 26, 2021](#);
 - (d) The description of the Registrant’s Common Stock contained in the Registrant’s registration statement on Form 8-A, filed with the SEC on [April 29, 2016](#), as amended on [May 11, 2016](#), including any further amendments thereto or reports filed for the purposes of updating such description, including [Exhibit 4.1](#) of the 2020 Form 10-K; and
 - (e) All documents, reports and definitive proxy or information statements filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, (other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document that also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.
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ITEM 8. EXHIBITS

Exhibit Number	Description
4.1	Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Registrant's current report on Form 8-K, filed with the SEC on May 19, 2016).
4.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's current report on Form 8-K filed with the SEC on December 6, 2018).
4.3	Certificate of Amendment to the Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's current report on Form 8-K filed with the SEC on March 18, 2019).
4.4	Certificate of Amendment to the Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's current report on Form 8-K filed with the SEC on March 26, 2021).
4.5	Second Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant's current report on Form 8-K, filed with the SEC on March 26, 2021).
5.1*	Opinion of Cooley LLP
23.1*	Consent of Independent Registered Public Accounting Firm to Outlook Therapeutics, Inc.
23.2*	Consent of Cooley LLP (included in Exhibit 5.1)
24.1*	Power of Attorney (see signature page hereto)
99.1	2015 Equity Incentive Plan, as amended and restated (incorporated by reference to Exhibit 99.1 to the Registrant's current report on Form 8-K filed with the SEC on September 18, 2020).
99.2	Forms of agreements and award grant notices under 2015 Equity Incentive Plan, as amended (incorporated by reference to Exhibit 10.4 to the Registrant's registration statement on Form S-1 (File No. 333-209011), filed with the SEC on January 15, 2016).
99.3	2016 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.5 to the Registrant's registration statement on Form S-1 (File No. 333-209011) filed with the SEC on February 12, 2016).

* Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Monmouth Junction, New Jersey, on March 26, 2021.

Outlook Therapeutics, Inc.

By: /s/ Lawrence A. Kenyon

Lawrence A. Kenyon

President, Chief Executive Officer and Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Lawrence A. Kenyon and Ralph H. Thurman, and each of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or each of them, or their or his or her substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Ralph H. Thurman</u> Ralph H. Thurman	Executive Chairman	March 26, 2021
<u>/s/ Lawrence A. Kenyon</u> Lawrence A. Kenyon	President and Chief Executive Officer, Chief Financial Officer, Treasurer, Secretary and Director <i>(Principal Executive and Accounting and Financial Officer)</i>	March 26, 2021
<u>/s/ Gerd Auffarth</u> Gerd Auffarth	Director	March 26, 2021
<u>/s/ Julian Gangolli</u> Julian Gangolli	Director	March 26, 2021
<u>/s/ Yezan Haddadin</u> Yezan Haddadin	Director	March 26, 2021
<u>/s/ Kurt J. Hilzinger</u> Kurt J. Hilzinger	Director	March 26, 2021
<u>/s/ Andong Huang</u> Andong Huang	Director	March 26, 2021
<u>/s/ Faisal Sukhtian</u> Faisal Sukhtian	Director	March 26, 2021



Yvan-Claude Pierre
+1 212 479 6721
yypierre@cooley.com

March 26, 2021

Outlook Therapeutics, Inc.
4260 U.S. Route 1
Monmouth Junction, New Jersey 08852

Ladies and Gentlemen:

We have represented Outlook Therapeutics, Inc., a Delaware corporation (the “**Company**”), in connection with the filing by the Company of a Registration Statement on Form S-8 (the “**Registration Statement**”) with the Securities and Exchange Commission covering the offering of up to 24,035,493 shares (the “**Shares**”) of the Company’s common stock, par value \$0.01 per share (“**Common Stock**”), consisting of (i) 23,815,493 shares of Common Stock that may be issued pursuant to the Company’s 2015 Equity Incentive Plan, as amended (the “**2015 Plan**”) and (ii) 220,000 shares of Common Stock that may be issued pursuant to the Company’s 2016 Employee Stock Purchase Plan (the “**2016 Plan**” and together with the 2015 Plan, the “**Plans**”).

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and the related prospectuses, (b) the Company’s Amended and Restated Certificate of Incorporation, as amended, and the Company’s Amended and Restated Bylaws, as amended, each as currently in effect as of the date hereof, (c) the Plans and (d) originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies; the accuracy, completeness and authenticity of certificates of public officials and the due authorization, execution and delivery of all documents by all persons other than the Company where authorization, execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plans, the Registration Statement and the related prospectus, will be validly issued, fully paid and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,

COOLEY LLP

By: /s/ Yvan-Claude Pierre
Yvan-Claude Pierre

55 Hudson Yards, New York, NY 10001-2157, Phone: (212) 479-6000, Fax: (212) 479-6275

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Outlook Therapeutics, Inc.:

We consent to the use of our report incorporated by reference herein.

Our report dated December 23, 2020 contains an explanatory paragraph that states that Outlook Therapeutics, Inc. has incurred recurring losses and negative cash flows from operations since its inception and has an accumulated deficit of \$289.7 million as of September 30, 2020 that raise substantial doubt about its ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP

Philadelphia, Pennsylvania
March 26, 2021
