
**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)

August 28, 2019

CAPRICOR THERAPEUTICS, INC.

(Exact name of Registrant as Specified in its Charter)

Delaware
(State or other jurisdiction
of incorporation)

001-34058
(Commission
File Number)

88-0363465
(I.R.S. Employer
Identification No.)

8840 Wilshire Blvd., 2nd Floor, Beverly Hills, CA
(Address of principal executive offices)

90211
(Zip Code)

(310) 358-3200

(Registrant's telephone number, including area code)

Not Applicable

(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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

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

Title of Each Class
Common Stock, par value \$0.001 per share

Trading Symbol(s)
CAPR

Name of Each Exchange on Which Registered
The Nasdaq Capital Market

Item 8.01 Other Events.

On August 28, 2019, Capricor Therapeutics, Inc., a Delaware corporation (the “Company”), filed a new prospectus supplement (the “Prospectus Supplement”) with the U.S. Securities and Exchange Commission (the “SEC”) with respect to the offer and sale of shares of its common stock, par value \$0.001 per share (the “Shares”), with an aggregate offering price of up to \$1,950,000 (the “Offering”) under the Company’s existing at-the-market equity offering program pursuant to a Common Stock Sales Agreement with H.C. Wainwright & Co., LLC, as sales agent. Any Shares offered and sold in the Offering will be issued pursuant to the Company’s Registration Statement on Form S-3 originally filed with the Securities and Exchange Commission on October 24, 2018 and subsequently amended on July 17, 2019 (the “Registration Statement”) and the Prospectus Supplement, which forms a part of the Registration Statement.

The Company currently intends to use the net proceeds from the Offering, if any, for research and development related to the Company’s product candidates, manufacturing of the Company’s products, working capital and general corporate purposes, which may include, without limitation, engaging in acquisitions or other business combinations. The Company reserves the right, at the discretion of its Board of Directors, to reallocate the proceeds of the Offering in response to developments in the Company’s business and other factors. At this time, the Company cannot specify with certainty all of the particular uses for the net proceeds to the Company from the Offering, if any.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy the Shares, nor shall there be any offer, solicitation or sale of the Shares in any state or country in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or country.

The opinion of the Company’s counsel regarding the validity of the Shares is filed as Exhibit 5.1 to this Current Report on Form 8-K. This opinion is also filed with reference to, and is hereby incorporated by reference into, the Registration Statement.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

[5.1](#) [Opinion of Sidley Austin LLP.](#)

[23.1](#) [Consent of Sidley Austin LLP \(included in Exhibit 5.1\).](#)

SIGNATURES

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

CAPRICOR THERAPEUTICS, INC.

Date: August 28, 2019

By: /s/ Linda Marbán, Ph.D.
Linda Marbán, Ph.D.
Chief Executive Officer

SIDLEY

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AMERICA · ASIA PACIFIC · EUROPE

August 28, 2019

Capricor Therapeutics, Inc.
8840 Wilshire Blvd., 2nd Floor
Beverly Hills, California 90211

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We refer to the Registration Statement on Form S-3, File No. 333-227955, as amended by Amendment No. 1 thereto (the "Registration Statement"), filed by Capricor Therapeutics, Inc., a Delaware corporation (the "Company"), with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act"), which Registration Statement was declared effective on July 18, 2019. Pursuant to the Registration Statement, the Company is issuing up to \$1,950,000 of shares (the "Shares") of its Common Stock, \$0.001 par value per share (the "Common Stock"). The Shares are to be sold by the Company pursuant to a Common Stock Sales Agreement dated July 22, 2019 (the "Sales Agreement") between the Company and H.C. Wainwright & Co., LLC.

This opinion letter is being delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

We have examined the Registration Statement, the Company's base prospectus dated July 18, 2019, as supplemented by the Company's prospectus supplement dated August 28, 2019, relating to the Shares in the forms filed with the Commission pursuant to Rule 424(b) under the Securities Act (the "Prospectus"), the Sales Agreement, the Company's certificate of incorporation (as amended, the "Certificate of Incorporation") and the resolutions adopted by the board of directors of the Company and the finance committee thereof established by such board relating to the Registration Statement and the issuance of the Shares by the Company. We have also examined originals, or copies of originals certified to our satisfaction, of such agreements, documents, certificates and statements of the Company and other corporate documents and instruments, and have examined such questions of law, as we have considered relevant and necessary as a basis for this opinion letter. We have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures, the legal capacity of all persons and the conformity with the original documents of any copies thereof submitted to us for examination. As to facts relevant to the opinions expressed herein, we have relied without independent investigation or verification upon, and assumed the accuracy and completeness of, certificates, letters and oral and written statements and representations of public officials and officers and other representatives of the Company.

Sidley Austin (CA) LLP is a Delaware limited liability partnership doing business as Sidley Austin LLP and practicing in affiliation with other Sidley Austin partnerships.

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Based on and subject to the foregoing and the other limitations, qualifications and assumptions set forth herein, we are of the opinion that the issuance and sale of the Shares pursuant to the Sales Agreement have been duly authorized by the Company, and such Shares will be validly issued, fully paid and non-assessable when certificates representing such Shares shall have been duly executed, countersigned and registered and duly delivered to the purchasers thereof against payment of the agreed consideration therefor in an amount not less than the par value thereof or, if any such Shares are to be issued in uncertificated form, the Company's books shall reflect the issuance of such Shares to the purchasers thereof against payment of the agreed consideration therefor in an amount not less than the par value thereof, in accordance with the Sales Agreement.

For the purposes of this opinion letter, we have assumed that, at the time of the issuance, sale and delivery of Shares: (i) the authorization thereof by the Company will not have been modified or rescinded, and there will not have occurred any change in law affecting the validity thereof; (ii) the Certificate of Incorporation and bylaws of the Company, as currently in effect, will not have been modified or amended and will be in full force and effect; and (iii) the Company will have authorized and unissued shares of Common Stock to issue as the Shares.

This opinion letter is limited to the General Corporation Law of the State of Delaware. We express no opinion as to the laws, rules or regulations of any other jurisdiction, including, without limitation, the federal laws of the United States of America or any state securities or blue sky laws.

We hereby consent to the filing of this opinion letter as an Exhibit to a Current Report on Form 8-K and to all references to our Firm included in or made a part of the Registration Statement, including the Prospectus. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Sidley Austin LLP
