

CytoDyn Inc.
Form 8-K
July 07, 2017

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): June 30, 2017

CytoDyn Inc.

(Exact name of registrant as specified in charter)

Delaware

(State or other jurisdiction of incorporation)

000-49908

(SEC File Number)

75-3056237

(IRS Employer Identification No.)

1111 Main Street, Suite 660

Vancouver, Washington
(Address of principal executive offices)

98660
(Zip Code)

Registrant's telephone number, including area code: (360) 980-8524

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 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 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On June 30, 2017, CytoDyn Inc. (the *Company*) sold approximately \$1.2 million in aggregate principal amount of unsecured convertible promissory notes (the *Notes*) and related warrants (the *Warrants*) to purchase common stock of the Company (the *Common Stock*) in private placements (the *June 30 Placement*) to various accredited investors, pursuant to subscription agreements entered into with each (collectively, the *Subscription Agreements*), in exchange for cash in an equal amount. The proceeds of the June 30 Placement is anticipated to be used for general working capital and to fund clinical trials.

The terms of the June 30 Placement and of the Notes and the Warrants are identical to those of the private placements that occurred on June 19 and 20, 2017 (the *Initial June Placements*), as described in the Form 8-K filed with the Securities and Exchange Commission on June 22, 2017 (the *Prior 8-K*) and (solely with respect to the terms of the Notes and not the Warrants) the Form 8-K filed with the Securities and Exchange Commission on June 2, 2017, each of which is incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

June 30 Placement

In the June 30 Placement, the Company sold approximately \$1.2 million in aggregate principal amount of Notes and related Warrants to various accredited investors. The principal amount of the Notes plus unpaid accrued interest at an annual rate of 7.0% is convertible at the election of the holders into shares of Common Stock at any time prior to maturity, at an initial conversion price of \$0.75 per share, with an aggregate of 1,651,331 shares of the Company's Common Stock initially underlying the Notes.

As part of the investment in the Notes, the Company also issued Warrants exercisable for 50% of the shares into which the Notes are convertible, with Warrants for an aggregate of 825,662 shares of Common Stock issued in the June 30 Placement. The Warrants are exercisable at a price of \$1.00 per share. The Warrants are currently exercisable in full and will expire five years from the date of issuance.

As described in the Prior 8-K, the Subscription Agreements contain certain *piggyback* registration rights relating to resales of shares of Common Stock underlying the Notes and the Warrants. In addition, the Company has engaged a placement agent to assist with identifying certain investors to participate in the offering of its Notes and Warrants, the terms of which engagement are also described in the Prior 8-K and incorporated herein by reference. In connection with the June 30 Placement, the placement agent is entitled to Placement Agent Warrants for 132,102 shares of Common Stock and a cash fee of \$111,465.

Each of the investors in the June 30 Placement and the placement agent has represented to the Company that it is an accredited investor as that term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the *Securities Act*). The Company relied on the exemption from registration afforded by Section 4(a)(2) of the Securities Act in connection with the issuance of the Note, the Warrants and the Placement Agent Warrants.

The foregoing description of the Notes, the Warrants, the Placement Agent Warrants and the June 30 Placement is qualified in its entirety by reference to the full text of the Notes, the Warrants, the Placement Agent Warrants and the Subscription Agreements, which are included as Exhibits 4.1, 4.2, 4.3 and 10.1, respectively, and are incorporated herein by reference.

Warrant Exercises

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On June 30, 2017, the Company issued an aggregate of 3,295,000 shares of Common Stock, upon the exercise by investors of certain outstanding warrants at \$0.50 per share, for aggregate gross proceeds of approximately \$1.6 million.

The warrants previously had an exercise price of \$1.00 and were scheduled to expire on May 31, 2017. As an inducement to exercise the warrants prior to their expiration, and in exchange for the release by such investors of certain claims, the Company entered into agreements with such investors to reduce the exercise price to \$0.50 per share and to extend the expiration date to June 30, 2017.

The Company relied upon the exemption from registration afforded by Section 4(a)(2) of the Securities Act in connection with the foregoing transactions.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit

No.	Description
4.1	<u>Form of Convertible Promissory Note (incorporated by reference to Exhibit 4.1 to the Form 8-K filed on June 22, 2017).</u>
4.2	<u>Form of Warrant to Purchase Common Stock (incorporated by reference to Exhibit 4.2 to the Form 8-K filed on June 22, 2017).</u>
4.3	<u>Form of Placement Agent Warrant (incorporated by reference to Exhibit 4.3 to the Form 8-K filed on June 22, 2017).</u>
10.1	<u>Form of Subscription Agreement (incorporated by reference to Exhibit 10.1 to the Form 8-K filed on June 22, 2017).</u>

SIGNATURE

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.

CytoDyn Inc.

Dated: July 7, 2017

By: /s/ Michael D. Mulholland
Michael D. Mulholland

Chief Financial Officer

EXHIBIT INDEX

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