

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

CAPRICOR THERAPEUTICS, INC.

Form: 8-K

Date Filed: 2019-06-04

Corporate Issuer CIK: 1133869

**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 4, 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	Trading Symbol(s)	Name of Each Exchange on Which Registered
Common Stock, par value \$0.001 per share	CAPR	The Nasdaq Capital Market

Item 5.03 Amendments to Articles of Incorporation or Bylaws: Change in Fiscal Year

Amendment to Articles of Incorporation and Reverse Stock Split

On May 29, 2019, the Capricor Therapeutics, Inc. (the "Company") stockholders approved an amendment to our Certificate of Incorporation to effect a reverse stock split of our common stock at a ratio in the range of 1-for-3 to 1-for-15, with such ratio to be determined in the discretion of our board of directors and with such reverse stock split to be effected at such time and date, if at all, as determined by our board of directors in its sole discretion.

On May 31, 2019, following stockholder approval of a reverse stock split at a ratio in the range of 1-for-3 to 1-for-15, the board of directors of Capricor acted to set the reverse stock split ratio at 1:10. On June 4, 2019, the Company filed a Certificate of Amendment of Certificate of Incorporation (the "Certificate of Amendment") with the Secretary of State of Delaware to effect a 1-for-10 reverse stock split of the shares of the Company's common stock, par value \$0.001 per share (the "Common Stock"), either issued and outstanding or held by the Company as treasury stock, effective as of 5:00 p.m. (Delaware time) on June 4, 2019 (the "Reverse Stock Split"). The Board in turn determined to effect the Reverse Stock Split at a ratio of one-for-ten shares (1:10), and approved the corresponding final form of the Certificate of Amendment to reflect such change.

As a result of the Reverse Stock Split, every ten shares of issued and outstanding Common Stock will be automatically combined into one issued and outstanding share of Common Stock, without any change in the par value per share. No fractional shares will be issued as a result of the Reverse Stock Split. Any fractional shares that would otherwise have resulted from the Reverse Stock Split will be paid in cash in a proportionate amount based on the closing price of the Common Stock as reported by The NASDAQ Capital Market for the day immediately preceding the effective date of the Reverse Stock Split. The Reverse Stock Split will reduce the number of shares of Common Stock outstanding from approximately 34.7 million shares to approximately 3.5 million shares, subject to adjustment for the payment of cash in lieu of fractional shares. The number of authorized shares of Common Stock under the Certificate of Incorporation will remain unchanged at 50 million shares.

In addition, proportionate adjustments will be made to the per share exercise price and the number of shares of Common Stock that may be purchased upon exercise of outstanding stock options granted by the Company, and to the number of shares of Common Stock reserved for future issuance under the Company's Stock Option Plans.

The Common Stock is expected to begin trading on a reverse stock split-adjusted basis on The NASDAQ Capital Market on June 5, 2019. The trading symbol for the Common Stock will remain "CAPR." The new CUSIP number for the Common Stock following the Reverse Stock Split is 14070B309.

The information set forth herein does not purport to be complete and is qualified in its entirety by reference to the full text of the Certificate of Amendment that effectuated the Reverse Stock Split as described herein, which was filed with the Secretary of State of the State of Delaware and will become effective at 5:00 p.m. (Delaware time) on June 4, 2019 in accordance with its terms. The Certificate of Amendment is attached hereto as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

[3.1 Certificate of Amendment of Certificate of Incorporation of Capricor Therapeutics, Inc.](#)

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: June 4, 2019

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

**CERTIFICATE OF AMENDMENT OF
CERTIFICATE OF INCORPORATION
OF
CAPRICOR THERAPEUTICS, INC.**

Capricor Therapeutics, Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify that:

FIRST: The name of the Corporation is Capricor Therapeutics, Inc.

SECOND: The original Certificate of Incorporation of the Corporation (formerly known as SMI Products, Inc. and Nile Therapeutics, Inc., respectively) was filed with the Secretary of State of the State of Delaware on January 26, 2007, a Certificate of Amendment of Certificate of Incorporation was thereafter filed with the Secretary of State of the State of Delaware on November 20, 2013 (the "Certificate of Incorporation").

THIRD: The Board of Directors of the Corporation duly adopted resolutions setting forth proposed amendments (the "Certificate of Amendment") to the Certificate of Incorporation amending the Certificate of Incorporation as follows:

The Certificate of Incorporation shall be amended by deleting the text of the first paragraph of Article Fourth thereof and substituting the following two paragraphs therefor.

"Effective at 5 p.m., Eastern Time, on the date of the filing of the Certificate of Amendment to Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware (the "Effective Time"), each ten (10) shares of Common Stock (as such term is defined in the Certificate of Incorporation in effect immediately prior to the Effective Time), par value \$0.001 per share, of the Corporation issued and outstanding immediately prior to the Effective Time (the "Old Shares") shall, automatically and without any action on the part of the respective holders thereof, be combined and converted into one (1) share of Common Stock (as defined below) (the "Reverse Stock Split"). No fractional shares shall be issued as a result of the Reverse Stock Split and, in lieu thereof, the Corporation shall pay to the holder of any such fractional share an amount in cash equal to such fraction multiplied by the closing sale price of the Corporation's common stock on The Nasdaq Capital Market on the trading day immediately before the date of the effectiveness of the Reverse Stock Split (as adjusted for the Reverse Stock Split). Each stock certificate representing the Old Shares immediately prior to the Effective Time shall thereafter represent that number of whole shares of Common Stock outstanding after the Effective Time into which the Old Shares represented by such certificate shall have been combined. Each holder of record of a stock certificate or certificates representing the Old Shares shall receive, upon surrender of such certificate or certificates, a new certificate or certificates representing the number of whole shares of Common Stock to which such holder is entitled pursuant to the Reverse Stock Split or, at the discretion of the Corporation and unless otherwise instructed by such holder, book-entry shares in lieu of a new certificate or certificates representing the number of whole shares of Common Stock to which such holder is entitled pursuant to the Reverse Stock Split. The shares of Common Stock issued in connection with the Reverse Stock Split shall have the same rights, preferences and privileges as the Old Shares.

Immediately after the effectiveness of the Reverse Stock Split, the total number of shares of all classes of stock which the Corporation shall have authority to issue shall be Fifty Five Million (55,000,000) shares, consisting of (i) Fifty Million (50,000,000) shares of common stock, par value \$0.001 per share ("Common Stock"), and (ii) Five Million (5,000,000) shares of preferred stock, par value \$0.001 per share ("Preferred Stock")."

FOURTH: The Board of Directors of the Corporation declared the Certificate of Amendment to be advisable and directed that the Certificate of Amendment be submitted to the stockholders of the Corporation for consideration thereof.

FIFTH: That, pursuant to resolution of its Board of Directors of the Corporation, a meeting of stockholders of the Corporation was duly called and held upon notice in accordance with Section 222 of the Delaware General Corporation Law at which meeting the necessary number of shares as required by statute were voted in favor of the Certificate of Amendment.

SIXTH: That the foregoing Certificate of Amendment was duly adopted in accordance with the provisions of Section 222 of the Delaware General Corporation Law.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its President and Chief Executive Officer this 4th day of June, 2019.

CAPRICOR THERAPEUTICS, INC.

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