

SECURITIES & EXCHANGE COMMISSION EDGAR FILING

Apollo Endosurgery, Inc.

Form: 8-K

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Corporate Issuer CIK: 1251769

**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): **March 24, 2021**

Apollo Endosurgery, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation)

001-35706
(Commission File Number)

16-1630142
(IRS Employer Identification No.)

**1120 S. Capital of Texas Highway
Building 1, Suite #300
Austin, Texas 78746**
(Address of principal executive offices) (Zip Code)
(512) 279-5100
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations 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:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, \$0.001 par value per share	APEN	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 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On March 24, 2021, upon the recommendation of the Compensation Committee of the Board of Directors of Apollo Endosurgery, Inc., the Board of Directors approved our 2021 performance bonus plan, or the 2021 Bonus Plan, for eligible employees, including our executive officers. The 2021 Bonus Plan allows eligible employees to earn a proportion of their target bonus based on our achievement of corporate performance goals and the remainder of their target bonus based on assessment of their individual performance. The corporate performance goals consist of revenue, gross margin and EBITDA targets, and the individual performance goals consist of specific objectives and goals tailored to each plan participant. The Board of Directors may change the corporate performance goals, or use its judgment when evaluating our results against these goals, and may elect to increase or decrease the amounts payable under the 2021 Bonus Plan at its sole discretion. The following table sets forth the target bonuses for 2021 for each of our executive officers, including our Chief Executive Officer and President and our other named executive officers for 2020, as set forth in our [definitive proxy statement on Schedule 14A for our Annual Meeting of Stockholders held on August 25, 2020](#).

Name and Principal Position	Total 2021 Target Performance Bonus as a Percentage of Base Salary
Chas McKhann <i>Chief Executive Officer and President</i>	80%
Stefanie Cavanaugh <i>Chief Financial Officer</i>	40%
Christopher J. Gostout, M.D. <i>Chief Medical Officer</i>	35%
John Molesphini <i>Executive Vice President, Operations</i>	40%
Bret Schwartzhoff <i>Vice President, U.S. Sales and Global Marketing</i>	45%

The foregoing description of the 2021 Bonus Plan is qualified in its entirety by the terms set forth in the 2021 Bonus Plan attached hereto as Exhibit 10.1.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description of Document
10.1	2021 Bonus Plan

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 hereunto duly authorized.

APOLLO ENDOSURGERY, INC.

Dated: March 25, 2021

By: /s/ Chas McKhann
Name: Chas McKhann
Title: Chief Executive Officer and President

APOLLO ENDOSURGERY 2021 BONUS PLAN

PURPOSE OF THE PLAN

The Apollo Endosurgery Bonus Plan (the “Plan”) is designed to reward eligible employees for their contributions toward the successful accomplishment of specific financial and strategic business objectives, and individual performance.

PERFORMANCE

Bonus amounts are determined based on both corporate performance and individual performance in relation to pre-established objectives.

Corporate Performance

Corporate performance will be measured based on financial objectives approved by the board of directors. Exceptions to this and modifications to this Bonus Plan can be made at any time at the board's sole discretion.

Individual Performance

Individual performance will be measured based on the achievement of written and approved goals prepared for each participant by their manager. Objectives and goals are established at the beginning of each Plan Year and initially documented no later than the end of February of each year, but may be modified throughout the Plan Year as necessary or appropriate, with senior management approval. Objectives and goals will be expressed as specific, measurable performance or achievement in relation to key operating priorities for the participant's department. Goal achievement is assessed by each individual's manager and the manager assessment may be subject to executive override.

BONUS POOL CALCULATION AND ALLOCATIONS

The Plan will have two separately funded pools – a Corporate pool (the “Corporate Component”) and Individual pool (the “Individual Component”). The two together form the individual's final bonus amount.

The bonus pools will have the following levels of achievement defined below:

- *Individual Threshold* – is solely determined at the discretion of the Board upon their end of year review of the overall Company's financial condition and operating performance.
- *Corporate Component Threshold* – minimum Company financial performance required before any corporate component pool will be funded.
- *Target* – financial performance required before the corporate component is eligible to be funded at 100%.

A multiplier is applied for performance between the Corporate Threshold and Target to determine the percentage of the bonus pool that is funded, as well as performance that is above Target. The Corporate Bonus Pool can be up to 200% of target based on the achievement of above plan performance objectives.

Corporate Component for 2021

Three performance metrics for the corporate component for 2021 are as follows:

- **50% weighting.** Target achievement of **2021 Product revenues**
- **30% weighting.** Target achievement of **2021 Gross Margin**
- **20% weighting.** Target achievement of **2021 EBITDA***

***EBITDA: Earnings before interest, taxes, and depreciation, and excluding stock-based compensation.**

BONUS POOL ADJUSTMENTS AND DIFFERENTIATION BY DEPARTMENT

The bonus pool may be allocated to individual departments by the Company's Chief Executive Officer based on such matters as he may determine to be appropriate, including but not limited to the department's contribution to the corporate performance for the year. For example, a department that exceeds its goals may receive a greater share of the total bonus pool than a department that under performs.

At the end of the Plan Year, the Company's Chief Executive Officer may recommend adjustments to the bonus pool to the board of directors after consideration of key operating results. When calculating corporate performance for purposes of this Plan, the board of directors has the discretion to consider such matters as it determines to be appropriate, including any or all of the following:

- Extraordinary financial or corporate transactions that may occur during the plan year
- Effects of accounting changes
- Expenses for productivity initiatives
- Other non-operating items
- Integration activities or expense
- Performance in relation to pre-established objectives
- Any other items of significant income or expense which are determined to be appropriate adjustments

Individual Bonus Calculation

Target bonus awards are expressed as a percentage of the employee's eligible earnings for each calendar year. Eligible earnings are defined as regular earnings paid during the year, holiday, vacation, and personal leave time. The target percentages will vary by position level. A participant's actual bonus award may vary above or below the targeted level based on corporate performance, the overall performance of his or her business unit relative to the overall performance of the Company, and the participant's performance in relation to his or her pre-determined individual objectives.

Position Level	Corporate Component Percentage	Individual Component Percentage
CEO	100%	Board Discretion
C-Level and VPs	80%	20%
Directors, Sr. Director	50%	50%
Managers and Professional Level (Exempt)	25%	75%
Hourly	0%	100%