

TherapeuticsMD, Inc.
Form 8-K
September 28, 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): September 25, 2017

TherapeuticsMD, Inc.
(Exact Name of Registrant as Specified in its Charter)

Nevada
(State or Other Jurisdiction
of Incorporation)

001-00100
(Commission
File Number)
6800 Broken Sound Parkway NW, Third Floor

87-0233535
(IRS Employer
Identification No.)

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Boca Raton, FL 33487

(Address of Principal Executive Office) (Zip Code)

Registrant's telephone number, including area code: (561) 961-1900

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 (§ 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 1.01. Entry into a Material Definitive Agreement.

On September 25, 2017, TherapeuticsMD, Inc., a Nevada corporation (the Company), entered into an underwriting agreement (the Underwriting Agreement) with J.P. Morgan Securities LLC (the Underwriter), relating to an underwritten public offering of 12,400,000 shares of the Company's common stock, par value \$0.001 per share (Common Stock). The net proceeds to the Company from the offering are expected to be approximately \$68.5 million, after deducting estimated offering expenses payable by the Company. The offering is expected to close on September 28, 2017.

The offering is being made pursuant to the Company's effective shelf registration statement on Form S-3 (Registration No. 333-207837) previously filed with the Securities and Exchange Commission (Commission), including the prospectus dated November 17, 2015, as supplemented by a preliminary prospectus supplement filed with the Commission on September 26, 2017 and a final prospectus supplement filed with the Commission on September 27, 2017.

The Underwriting Agreement contains representations, warranties and covenants of the Company that are customary for transactions of this type and customary conditions to closing. Additionally, the Company has agreed to provide the Underwriter with customary indemnification rights under the Underwriting Agreement. The foregoing description of the Underwriting Agreement is qualified in its entirety by reference to the Underwriting Agreement, a copy of which is filed as Exhibit 1.1 to this Form 8-K and is incorporated herein by reference. A copy of the opinion of Greenberg Traurig, LLP regarding the validity of the shares of Common Stock issued in the offering is attached hereto as Exhibit 5.1.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits.*

| Exhibit Number | Description |
|----------------|---|
| 1.1 | <u>Underwriting Agreement, dated September 25, 2017, by and between the Company and J.P. Morgan Securities LLC.</u> |
| 5.1 | <u>Opinion of Greenberg Traurig, LLP.</u> |
| 23.1 | <u>Consent of Greenberg Traurig, LLP (set forth in Exhibit 5.1).</u> |

SIGNATURES

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.

Date: September 28, 2017

THERAPEUTICSMD, INC.

By: /s/ Daniel A. Cartwright

Name: Daniel A. Cartwright

Title: Chief Financial Officer