

**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): December 27, 2022

Biora Therapeutics, Inc.

(Exact name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-39334
(Commission
File Number)

27-3950390
(IRS Employer
Identification No.)

4330 La Jolla Village Drive, Suite 300
San Diego, California
(Address of Principal Executive Offices)

92122
(Zip Code)

Registrant's Telephone Number, Including Area Code: (833) 727-2841

N/A
(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))

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	BIOR	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 3.03. Material Modification to Rights of Security Holders.

Following the Special Meeting of Stockholders of Biora Therapeutics, Inc. (the “*Company*”) held on December 19, 2022, the Company’s Board of Directors approved a reverse stock split (the “*Reverse Stock Split*”) of the Company’s common stock, par value \$0.001 per share (the “*Common Stock*”), at a ratio of 25:1 (the “*Reverse Stock Split Ratio*”) and a reduction in the total number of authorized shares of Common Stock from 350,000,000 shares to 164,000,000 shares (the “*Authorized Shares Reduction*”), each with an effective time of 12:01 a.m. Eastern Time on January 3, 2023 (the “*Effective Time*”). To effect the Reverse Stock Split and the Authorized Shares Reduction, the Company filed an amendment to its Eighth Amended and Restated Certificate of Incorporation, as amended, with the Secretary of State of the State of Delaware (the “*Amendment*”).

As of the Effective Time, each twenty-five shares of Common Stock outstanding will be combined, automatically and without any action on the part of the Company or its stockholders, into one new share of Common Stock. No fractional shares of Common Stock will be issued as a result of the Reverse Stock Split. In lieu of any fractional shares to which a stockholder of record would otherwise be entitled, the Company will pay cash (without interest and subject to withholding taxes, as applicable) equal to such fraction multiplied by the closing price of the Common Stock on the Nasdaq Stock Market on December 30, 2022 (as adjusted in good faith by the Company to account for the Reverse Stock Split Ratio). The Common Stock is expected to commence trading on a split-adjusted basis at the open of trading on January 3, 2023, at which time the Common Stock will be represented by a new CUSIP number (74319F305). The par value per share of the Common Stock will remain unchanged.

In addition, effective as of the Effective Time and based on the Reverse Stock Split Ratio, proportionate adjustments will be made (i) in accordance with the terms of the indenture, to the conversion rate of the Company’s outstanding 7.25% Convertible Senior Notes due 2025, and (ii) in accordance with the terms of the Company’s equity plans, to the number of shares subject to outstanding equity awards, the per-share exercise or purchase price (if any) with respect to those awards, and the number of shares of Common Stock reserved for future issuance under such plans.

The foregoing description of the Amendment does not purport to be complete and is subject to and qualified in its entirety by reference to the Amendment, a copy of which is attached hereto as Exhibit 3.1, and is incorporated herein by reference.

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

The information set forth in Item 3.03 of this Current Report on Form 8-K is incorporated by reference into this Item 5.03.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

3.1 [Certificate of Amendment to the Certificate of Incorporation of Biora Therapeutics, Inc.](#)

104 Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101)

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: December 30, 2022

Biora Therapeutics, Inc.

By: /s/ Eric d'Esparbes

Eric d'Esparbes

Chief Financial Officer

**SECOND CERTIFICATE OF AMENDMENT TO EIGHTH AMENDED AND
RESTATED CERTIFICATE OF INCORPORATION OF
BIORA THERAPEUTICS, INC.**

Biora Therapeutics, Inc. (the "Corporation"), a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "General Corporation Law"), does hereby certify as follows:

1. The current name of the Corporation is Biora Therapeutics, Inc., and the Corporation was originally incorporated pursuant to the General Corporation Law on January 9, 2012 under the name Ascendant MDx, Inc.
2. The Corporation's Eighth Amended and Restated Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on June 23, 2020 (as amended from time to time, the "Certificate of Incorporation").
3. The amendments to the Certificate of Incorporation set forth in this Certificate of Amendment were duly authorized and adopted in accordance with Section 242 of the General Corporation Law.
4. The amendments to the existing Certificate of Incorporation being effected hereby are to amend and restate in its entirety Section 4.1 of Article IV of the Certificate of Incorporation to read as follows:

"Section 4.1 Capital Stock.

(a) Authorized Stock. The total number of shares which the Corporation shall have authority to issue is 174,000,000, of which 164,000,000 shall be designated as Common Stock, par value \$0.001 per share (the "Common Stock"), and 10,000,000 shall be designated as Preferred Stock, par value \$0.001 per share (the "Preferred Stock").

(b) Reverse Stock Split. Effective as of 12:01 a.m. Eastern Time on January 3, 2023 (the "Effective Time"), each twenty-five shares of the Corporation's Common Stock issued and outstanding immediately prior to the Effective Time shall, automatically and without any action on the part of the Corporation or the respective holders thereof, be combined and converted into one share of Common Stock without increasing or decreasing the par value of each share of Common Stock (the "Reverse Stock Split"). No fractional shares of Common Stock shall be issued as a result of the Reverse Stock Split and, in lieu thereof, upon surrender after the Effective Time of a certificate or book entry position which formerly represented shares of Common Stock that were issued and outstanding immediately prior to the Effective Time, any person who would otherwise be entitled to a fractional share of Common Stock as a result of the Reverse Stock Split, following the Effective Time, shall be entitled to receive a cash payment (without interest and subject to withholding taxes, as applicable) equal to the fraction of a share of Common Stock to which such holder would otherwise be entitled multiplied by the closing price of Common Stock on the Nasdaq Stock Market on the first business day immediately preceding the Effective Time (as adjusted in good faith by the

Corporation to account for the reverse stock split ratio). The Reverse Stock Split shall occur whether or not the certificates representing such shares of Common Stock are surrendered to the Corporation or its transfer agent. Each certificate or book entry position that immediately prior to the Effective Time represented shares of Common Stock shall thereafter represent the number of shares of Common Stock into which the shares of Common Stock represented by such certificate or book entry position has been combined, subject to the elimination of fractional interests set forth above.”

5. This Certificate of Amendment to the Certificate of Incorporation shall be effective as of 12:01 a.m. Eastern Time on January 3, 2023.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to the Certificate of Incorporation to be signed by its Chief Executive Officer this 29th day of December, 2022.

By: /s/ Aditya P. Mohanty
Aditya P. Mohanty
Chief Executive Officer