

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): October 25, 2022

ACELRX PHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

DELAWARE

(State of incorporation)

001-35068

(Commission File No.)

41-2193603

(IRS Employer Identification No.)

25821 Industrial Blvd., Suite 400
Hayward, CA 94545

(Address of principal executive offices and zip code)

Registrant's telephone number, including area code: **(650) 216-3500**

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 (see General Instruction A.2. below):

- 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	ACRX	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 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.***Reverse Stock Split***

On October 25, 2022, AcelRx Pharmaceuticals, Inc., a Delaware corporation (the “Company”), filed with the Secretary of State of the State of Delaware a Certificate of Amendment to the Company’s Amended and Restated Certificate of Incorporation (the “Amendment”), to effect a one-for-twenty (1:20) reverse stock split of its outstanding common stock, effective as of October 25, 2022 (the “Reverse Stock Split”). A series of alternate amendments to effect the Reverse Stock Split was approved by the Company’s stockholders at a Special Meeting of Stockholders held on September 23, 2022, and the specific one-for-twenty (1:20) ratio was subsequently approved by the Company’s Board of Directors on October 21, 2022.

The Amendment provides that at the effective time of the Reverse Stock Split, every 20 shares of the Company’s issued and outstanding common stock will be automatically converted into one issued and outstanding share of common stock, without any change in par value per share. The Reverse Stock Split will affect all shares of the Company’s common stock outstanding immediately prior to the effective time of the Reverse Stock Split, as well as the number of shares of common stock available for issuance under the Company’s equity incentive plans and employee stock purchase plan. In addition, the Reverse Stock Split will effect a reduction in the number of shares of common stock issuable upon the exercise of stock options and warrants outstanding immediately prior to the effectiveness of the Reverse Stock Split with a corresponding increase in exercise price per share. No fractional shares will be issued because of the Reverse Stock Split. Stockholders who would otherwise be entitled to receive a fractional share will receive a cash payment in lieu thereof.

The Company’s common stock is scheduled to begin trading on the Nasdaq Global Market on a split-adjusted basis when the market opens on October 26, 2022. The new CUSIP number for the common stock following the Reverse Stock Split is 00444T 209.

The foregoing description is qualified in its entirety by the Amendment, which is attached as Exhibit 3.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Redemption and Retirement of Series A Convertible Preferred Stock

On October 12, 2022, the Company redeemed all outstanding shares of its Series A Convertible Preferred Stock, par value \$0.001 per share (the “Series A Preferred Stock”), for an aggregate of \$315,000 paid to the sole holder of the Series A Preferred Stock.

On October 25, 2022, the Company filed a Certificate of Elimination (the “Certificate”), with the Secretary of State of the State of Delaware with respect to the Series A Preferred Stock. The Certificate (i) eliminated the previous designation of 3,000 shares of Series A Preferred Stock from the Company’s Amended and Restated Certificate of Incorporation, none of which were outstanding at the time of filing, and (ii) caused such shares of Series A Preferred Stock to resume their status as authorized but unissued and non-designated shares of preferred stock.

The foregoing description is qualified in its entirety by the Certificate, which is attached as Exhibit 3.2 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.**(d) Exhibits.**

<u>Exhibit No.</u>	<u>Description</u>
3.1	Certificate of Amendment to Amended and Restated Certificate of Incorporation.
3.2	Certificate of Elimination of Series A Convertible Preferred Stock.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

Date: October 25, 2022

ACELRX PHARMACEUTICALS, INC.

By: /s/ Raffi Asadorian

Name: Raffi Asadorian

Title: Chief Financial Officer

**CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF ACELRX PHARMACEUTICALS, INC.**

ACELRX PHARMACEUTICALS, INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "*Corporation*"), hereby certifies that:

FIRST: The name of this corporation is AcelRx Pharmaceuticals, Inc.

SECOND: The original name of the Corporation was "SuRx, Inc.," and the date of filing the original Certificate of Incorporation of the Corporation with the Secretary of State of the State of Delaware is July 13, 2005.

THIRD: The Board of Directors of the Corporation, acting in accordance with the provisions of Sections 141 and 242 of the General Corporation Law of the State of Delaware, adopted resolutions amending Article IV, Section A of the Amended and Restated Certificate of Incorporation, as amended, to read in its entirety:

"A. This corporation is authorized to issue two classes of stock to be designated, respectively, "*Common Stock*" and "*Preferred Stock*." The total number of shares which this corporation is authorized to issue is 210,000,000 shares. 200,000,000 shares shall be Common Stock, each having a par value of \$0.001. 10,000,000 shares shall be Preferred Stock, each having a par value of \$0.001.

Effective at 5:01 p.m. Eastern time, on the date of the filing of this Certificate of Amendment to the Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware (the "*Effective Time*"), each twenty (20) shares of this corporation's Common Stock, par value \$0.001 per share, issued and outstanding shall be combined into one (1) share of Common Stock, par value \$0.001 per share, of this corporation. No fractional shares shall be issued and, in lieu thereof, any holder of less than one share of Common Stock shall, upon surrender after the Effective Time of a certificate, which formerly represented shares of Common Stock that were issued and outstanding immediately prior to the Effective Time, be entitled to receive cash for such holder's fractional share based upon the closing sales price of this corporation's Common Stock as reported on the Nasdaq Global Market on the date this Certificate of Amendment to the Amended and Restated Certificate of Incorporation of this corporation is filed with the Secretary of State of the State of Delaware."

FOURTH: This Certificate of Amendment to the Amended and Restated Certificate of Incorporation was submitted to the stockholders of the Corporation and was duly adopted and approved in accordance with the provisions of Section 242 of the General Corporate Law of the State of Delaware.

* * * * *

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by its Chief Executive Officer this 25th day of October, 2022.

ACELRX PHARMACEUTICALS, INC.

By: /s/ Vincent J. Angotti
VINCENT J. ANGOTTI
Chief Executive Officer

**CERTIFICATE OF ELIMINATION
OF
SERIES A CONVERTIBLE PREFERRED STOCK
OF**

ACELRX PHARMACEUTICALS, INC.

(Pursuant to Section 151(g) of the General Corporation Law of the State of Delaware)

ACELRX PHARMACEUTICALS, INC., a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the "**Corporation**"), certifies as follows:

FIRST: The Corporation's Amended and Restated Certificate of Incorporation was filed in the Office of the Secretary of State of the State of Delaware on February 16, 2011, a Certificate of Amendment was filed with in the Office of the Secretary of State of the State of Delaware on June 25, 2019, and a Certificate of Designation of Series A Convertible Preferred Stock was filed in the Office of the Secretary of State of the State of Delaware on August 3, 2022 (together, the "**Amended and Restated Certificate of Incorporation**"), which authorizes the issuance of 3,000 shares of a series of Preferred Stock designated Series A Convertible Preferred Stock, par value \$0.001 per share, (the "**Series A Preferred Stock**").

SECOND: The Board of Directors of the Corporation (the "**Board**"), previously authorized, and the Company redeemed all issued and outstanding shares of the Series A Preferred Stock, which constituted all authorized shares of the Series A Preferred Stock, and Board has also authorized the retirement of the Series A Preferred Stock.

THIRD: Pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the "**DGCL**"), the Board adopted the following resolutions:

RESOLVED, that all shares of Series A Preferred Stock are hereby retired and upon the effective date hereof none of the authorized shares of such series of Series A Preferred Stock will be outstanding and no shares of such series thereafter will be issued; and

RESOLVED FURTHER, that the officers of the Company are authorized and directed to execute a Certificate of Elimination as provided by Section 201(g) of the DGCL in accordance with Section 103 of the DGCL, substantially in the form attached as **EXHIBIT B**, with such changes therein as the officer executing the same may approve and as are permitted by the DGCL to be made by such officer, such approval to be conclusively evidenced by such officer's execution of such Certificate of Elimination, and to file the same forthwith in the Office of the Secretary of State of the State of Delaware, and when such Certificate of Elimination becomes effective, all references to the Series A Preferred Stock in the Amended and Restated Certificate of Incorporation, as amended, of the Company shall be eliminated and the shares of Series A Preferred Stock so redeemed and retired shall resume the status of authorized and unissued shares of Preferred Stock of the Company, without designation as to series.

FOURTH: Pursuant to the provisions of Section 151(g) of the DGCL, all references to Series A Preferred Stock in the Amended and Restated Certificate of Incorporation hereby are eliminated, and the shares that were designated to such series hereby are returned to the status of authorized but unissued shares of the Preferred Stock of the Corporation, without designation as to series.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Elimination to be signed by a duly authorized officer this 25th day of October, 2022.

ACELRX PHARMACEUTICALS, INC.

By: /s/ Vincent J. Angotti

VINCENT J. ANGOTTI

Chief Executive Officer