

As filed with the Securities and Exchange Commission on October 13, 2023

Registration No. 333-

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
WASHINGTON, D.C. 20549

**FORM S-8
REGISTRATION STATEMENT**
UNDER
THE SECURITIES ACT OF 1933

KIORA PHARMACEUTICALS, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

98-0443284

(IRS Employer
Identification No.)

**332 Encinitas Boulevard
Suite 102
Encinitas, CA**

(Address of Principal Executive Offices)

92024

(Zip Code)

Kiora Pharmaceuticals, Inc. 2014 Equity Incentive Plan

(Full title of the plan)

**Brian M. Strem, Ph.D.
President and Chief Executive Officer
Kiora Pharmaceuticals, Inc.
332 Encinitas Boulevard
Suite 102
Encinitas, CA 92024**

(Name and address of agent for service)

(781) 788-9043

(Telephone number, including area code, of agent for service)

Copies to:

**Robert A. Pettit
Burns & Levinson LLP
125 High Street
Boston, MA 02110
Telephone: (617) 345-3000**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company . See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company,” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large Accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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 7(a)(2)(B) of the Securities Act .

INCORPORATION BY REFERENCE OF PRIOR REGISTRATION STATEMENT

This Registration Statement on Form S-8 is filed by Kiora Pharmaceuticals, Inc., a Delaware corporation (the “**Registrant**”), and relates to (i) 1,000,000 shares of its common stock, par value \$0.01 per share (the “**Common Stock**”), issuable under the Registrant’s 2014 Equity Incentive Plan (as amended, the “**2014 Plan**”) that have become reserved for issuance pursuant to stockholder approval obtained on September 27, 2023, and (ii) 76,632 shares of Common Stock issuable under the 2014 Plan that became reserved for issuance as a result of the operation of the “evergreen” provision of the 2014 Plan, which provides that the total number of shares subject to such plan will be increased on January 1 of each of the ten (10) calendar years during the term of the 2014 Plan pursuant to a specified formula.

The shares of Common Stock included in this Registration Statement are in addition to the shares of Common Stock relating to the 2014 Plan that were registered on the Registrant’s Registration Statements on Form S-8 filed with the Securities and Exchange Commission (the “**Commission**”) on February 20, 2015 (SEC File No. 333-202207), on February 9, 2016 (SEC File No. 333-209441), on February 24, 2017 (SEC File No. 333-216227), on March 2, 2018 (SEC File No. 333-223431), on May 3, 2019 (SEC File No. 333-231207), on August 6, 2020 (SEC File No. 333-241657), on May 3, 2022 (SEC File No. 333-264640), and on October 5, 2022 (SEC File No. 333-267754) (together, the “**Prior Registration Statements**”).

This Registration Statement relates to securities of the same class as those to which the Prior Registration Statements relate, and is submitted in accordance with General Instruction E to Form S-8 regarding the Registration of Additional Securities. Pursuant to General Instruction E to Form S-8, the contents of the Prior Registration Statements are incorporated herein by reference and made part of this Registration Statement, except as supplemented by the information set forth below.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Registrant is subject to the informational and reporting requirements of Sections 13(a), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and in accordance therewith files reports, proxy statements and other information with the Commission. The following documents, which are on file with the Commission, are incorporated in this Registration Statement by reference:

(a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2022 filed with the Commission on March 23, 2023 pursuant to Section 13 of the Exchange Act;

(b) All other reports filed by the Registrant pursuant to Section 13(a) or 15(d) of the Exchange Act, since the end of the fiscal year covered by the Registrant's Annual Report referred to in (a) above; and

(c) The description of the Registrant's Common Stock contained in the Registrant's Amendment No. 1 to Registration Statement on Form 8-A (File No. 001-36672) filed with the Commission on July 30, 2015 under the Exchange Act, including any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act subsequent to the filing of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of the filing of such documents, except as to documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 8. Exhibits.

The Exhibit Index immediately preceding the exhibits is incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Encinitas, State of California, on this 13th day of October, 2023.

KIORA PHARMACEUTICALS, INC.

By: /s/ Brian M. Strem, Ph.D.
Brian M. Strem, Ph.D.
President and Chief Executive Officer

POWER OF ATTORNEY AND SIGNATURES

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Brian M. Strem, Ph.D. and Melissa Tosca, and each of them singly (with full power to each of them to act alone), as such person's true and lawful attorney in fact and agent with full power of substitution, for such person in any and all capacities, to sign any and all amendments to this Registration Statement on Form S-8 (including post effective amendments), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney in fact, proxy and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney in fact, proxy and agent, or his substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Brian M. Strem, Ph.D.</u> Brian M. Strem, Ph.D.	President, Chief Executive Officer and Director (principal executive officer)	October 13, 2023
<u>/s/ Melissa Tosca</u> Melissa Tosca	Executive Vice President of Finance (principal financial and accounting officer)	October 13, 2023
<u>/s/ Praveen Tyle</u> Praveen Tyle	Chairman	October 13, 2023
<u>/s/ Kenneth Gayron</u> Kenneth Gayron	Director	October 13, 2023
<u>/s/ David Hollander</u> David Hollander	Director	October 13, 2023
<u>/s/ Erin Parsons</u> Erin Parsons	Director	October 13, 2023
<u>/s/ Aron Shapiro</u> Aron Shapiro	Director	October 13, 2023
<u>/s/ Carmine Stengone</u> Carmine Stengone	Director	October 13, 2023

INDEX TO EXHIBITS

Exhibit Number	Description
4.1	<u>Restated Certificate of Incorporation of the Registrant (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on February 20, 2015 and incorporated by reference thereto).</u>
4.2	<u>Certificate of Amendment to the Restated Certificate of Incorporation of the Registrant, filed July 10, 2018 (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on July 11, 2018 and incorporated by reference thereto).</u>
4.3	<u>Certificate of Amendment to the Restated Certificate of Incorporation of the Registrant, filed August 28, 2019 (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on August 29, 2019 and incorporated by reference thereto).</u>
4.4	<u>Certificate of Amendment to the Restated Certificate of Incorporation of the Registrant, filed June 25, 2020 (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on June 26, 2020 and incorporated by reference thereto).</u>
4.5	<u>Certificate of Ownership and Merger of the Registrant, filed November 5, 2021 (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on November 8, 2021 and incorporated by reference thereto).</u>
4.6	<u>Certificate of Amendment to the Restated Certificate of Incorporation of the Registrant, filed September 23, 2022 (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on September 26, 2022 and incorporated by reference thereto).</u>
4.7	<u>Third Amended and Restated By-laws of the Registrant (previously filed as an exhibit to the Registrant's Current Report on Form 8-K filed on August 4, 2022 and incorporated by reference thereto).</u>
4.8	<u>2014 Equity Incentive Plan, as amended (previously filed as Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A filed on July 21, 2023 and incorporated by reference thereto).</u>
5.1	<u>Opinion of Burns & Levinson LLP</u>
23.1	<u>Consent of Independent Registered Public Accounting Firm</u>
23.2	Consent of Burns & Levinson LLP (contained in Exhibit 5.1 hereto)
24.1	Power of Attorney (contained on signature page hereto)
107	<u>Calculation of Filing Fee Table</u>

[Letterhead of Burns & Levinson LLP]

October 13, 2023

Kiora Pharmaceuticals, Inc.
332 Encinitas Blvd.
Suite 102
Encinitas, CA 92024

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the filing by Kiora Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), of a Registration Statement on Form S-8 (the "**Registration Statement**") with the Securities and Exchange Commission covering the offering of up to an aggregate of 1,076,632 shares (the "**Shares**") of the Company's Common Stock, par value \$0.01 per share (" **Common Stock**"), pursuant to the Company's 2014 Equity Incentive Plan (as amended, the "**Plan**").

In connection with this opinion, we have examined and relied upon our review of (a) the Registration Statement and related prospectuses, (b) the Plan, (c) the Company's Restated Certificate of Incorporation and Second Amended and Restated Bylaws, each as currently in effect, and (d) such other documents, records, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness and authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies thereof, and the due execution and delivery of all documents where due execution and delivery are a prerequisite to the effectiveness thereof.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware.

For purposes of the opinion expressed below, we have assumed that a sufficient number of authorized but unissued shares of Common Stock will be available for issuance when the Shares are issued.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plan, and the Registration Statement and related prospectus, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Very truly yours,

/s/ Burns & Levinson LLP

Burns & Levinson LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement of Kiora Pharmaceuticals, Inc. on Form S-8 to be filed on or about October 13, 2023 of our report dated March 23, 2023, on our audits of the financial statements as of December 31, 2022 and 2021 and for each of the years then ended, which report was included in the Annual Report on Form 10-K filed March 23, 2023. Our report includes an explanatory paragraph about the existence of substantial doubt concerning the Company's ability to continue as a going concern.

/s/ EisnerAmper LLP

EISNERAMPER LLP

Iselin, New Jersey

October 13, 2023

Calculation of Filing Fee Tables

FORM S-8

(Form Type)

KIORA PHARMACEUTICALS, INC.

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

	Security Type	Security Class Title	Fee Calculation or Carry Forward Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Newly Registered Securities								
Fees to Be Paid	Equity	Common Stock, par value \$0.01 per share ⁽²⁾⁽³⁾⁽⁴⁾	Other	1,076,632 ⁽²⁾	\$0.6083 ⁽³⁾	\$654,915.25	\$147.60 per \$1,000,000	\$96.67
	Total Offering Amounts					\$654,915.25		\$96.67
	Total Fee Offsets							\$0.00
	Net Fee Due							\$96.67

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this registration statement on Form S-8 (the "Registration Statement") shall also cover any additional shares of the common stock, \$0.01 par value per share (the "Common Stock"), of Kiora Pharmaceuticals, Inc. (the "Registrant") that become issuable with respect to the securities identified in the above table, by reason of any stock dividend, stock splits, reverse stock splits, recapitalizations, reclassifications, mergers, split-ups, reorganizations, consolidations and other capital adjustments effected without receipt of consideration that increases the number of outstanding shares of Common Stock.
- (2) Represents (i) an increase of 1,000,000 shares of Common Stock available for issuance under the Registrant's 2014 Equity Incentive Plan, as amended (the "2014 Plan") pursuant to stockholder approval obtained on September 27, 2023, and (ii) an increase of 76,632 shares of Common Stock that became reserved for issuance under the 2014 Plan as a result of the operation of the "evergreen" provision, which provides that the total number of shares subject to such plan will be increased on January 1 of each year.
- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act on the basis of \$0.6083, the average of the high and low prices of a share of Common Stock as reported on The Nasdaq Stock Market LLC on October 6, 2023.