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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**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)

June 12, 2023

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**CAPRICOR THERAPEUTICS, INC.**

(Exact name of Registrant as Specified in its Charter)

**Delaware  
(State or other jurisdiction  
of incorporation)**

**001-34058  
(Commission  
File Number)**

**88-0363465  
(I.R.S. Employer  
Identification No.)**

**10865 Road to the Cure, Suite 150, San Diego, California  
(Address of principal executive offices)**

**92121  
(Zip Code)**

**(858) 727-1755  
(Registrant's telephone number, including area code)**

**Not Applicable  
(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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

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	CAPR	The Nasdaq Capital Market

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**Item 5.03 Amendments to Articles of Incorporation or Bylaws: Change in Fiscal Year**

Amendment to Articles of Incorporation

On June 12, 2023, the stockholders of Capricor Therapeutics, Inc. (the “Company”) approved an amendment to the Company’s Certificate of Incorporation to amend the exculpation provisions within the Company’s Certificate of Incorporation to limit the liability of the Company’s officers in specific circumstances, as permitted by the DGCL (the “Amendment”). On June 13, 2023, the Company filed a Certificate of Amendment of Certificate of Incorporation (the “Certificate of Amendment”) with the Secretary of State of Delaware to effect the Amendment, effective as of June 13, 2023.

Prior to the Amendment, the Company’s Certificate of Incorporation provided for exculpation of directors to the extent permitted by the General Corporation Law of the State of Delaware (the “DGCL”) but did not include a similar provision that would allow for the exculpation of officers, which became permissible under new legislation adopted by the State of Delaware effective as of August 1, 2022. The Amendment causes the Company’s Certificate of Incorporation to include exculpation of officers to the fullest extent permitted by the DGCL. The Amendment results in Article NINTH of the Company’s Certificate of Incorporation reading in its entirety as follows:

“NINTH: A director or officer of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, except to the extent that such exemption from liability or limitation thereof is not permitted under the DGCL as currently in effect or as the same may hereafter be amended. If the DGCL is hereafter amended to eliminate or limit further the liability of a director or officer, then, in addition to the elimination and limitation of liability provided by the preceding sentence, the liability of each director or officer shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. For purposes of this Article Ninth, “officer” shall have the meaning provided in Section 102(b)(7) of the DGCL, as it presently exists or may hereafter be amended from time to time. Any amendment, modification or repeal of this Article Ninth shall be prospective only and shall not adversely affect any right or protection of a director or officer of the Corporation that exists at the time of such amendment, modification or repeal.”

This description of the Amendment is a summary and is qualified by the complete text of the Certificate of Amendment, a copy of which is attached as Exhibit 3.1 hereto and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits**

3.1 [Certificate of Amendment of Certificate of Incorporation of Capricor Therapeutics, Inc.](#)

104 Cover Page Interactive Data File (formatted as inline XBRL).

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

Date: June 13, 2023

**CAPRICOR THERAPEUTICS, INC.**

By: /s/ Linda Marbán, Ph.D.  
Linda Marbán, Ph.D.  
Chief Executive Officer

**CERTIFICATE OF AMENDMENT OF  
CERTIFICATE OF INCORPORATION  
OF  
CAPRICOR THERAPEUTICS, INC.**

Capricor Therapeutics, Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify that:

**FIRST:** The name of the Corporation is Capricor Therapeutics, Inc.

**SECOND:** The original Certificate of Incorporation of the Corporation (formerly known as SMI Products, Inc. and Nile Therapeutics, Inc., respectively) was filed with the Secretary of State of the State of Delaware on January 26, 2007, a Certificate of Amendment of Certificate of Incorporation was thereafter filed with the Secretary of State of the State of Delaware on November 20, 2013, and a Certificate of Amendment of Certificate of Incorporation was thereafter filed with the Secretary of State of the State of Delaware on June 4, 2019 (collectively, the "Certificate of Incorporation").

**THIRD:** The Board of Directors of the Corporation duly adopted resolutions setting forth proposed amendments (the "Certificate of Amendment") to the Certificate of Incorporation amending the Certificate of Incorporation as follows:

The Certificate of Incorporation shall be amended by deleting the text of Article Ninth thereof and substituting the following paragraph therefor:

"NINTH. A director or officer of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director or officer, except to the extent that such exemption from liability or limitation thereof is not permitted under the DGCL as currently in effect or as the same may hereafter be amended. If the DGCL is hereafter amended to eliminate or limit further the liability of a director or officer, then, in addition to the elimination and limitation of liability provided by the preceding sentence, the liability of each director or officer shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended. For purposes of this Article Ninth, "officer" shall have the meaning provided in Section 102(b)(7) of the DGCL, as it presently exists or may hereafter be amended from time to time. Any amendment, modification or repeal of this Article Ninth shall be prospective only and shall not adversely affect any right or protection of a director or officer of the Corporation that exists at the time of such amendment, modification or repeal."

**FOURTH:** The Board of Directors of the Corporation declared the Certificate of Amendment to be advisable and directed that the Certificate of Amendment be submitted to the stockholders of the Corporation for consideration thereof.

**FIFTH:** That, pursuant to resolution of its Board of Directors of the Corporation, a meeting of stockholders of the Corporation was duly called and held upon notice in accordance with Section 222 of the DGCL at which meeting the necessary number of shares as required by statute were voted in favor of the Certificate of Amendment.

**SIXTH:** That the foregoing Certificate of Amendment was duly adopted in accordance with the provisions of Section 242 of the DGCL.

**IN WITNESS WHEREOF**, the Corporation has caused this Certificate of Amendment to be signed by its Chief Executive Officer this 13th day of June, 2023.

**CAPRICOR THERAPEUTICS, INC.**

By: /s/ Linda Marbán, Ph.D.  
Linda Marbán, Ph.D.  
Chief Executive Officer and Director

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