

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 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): **April 24, 2020**

Windtree Therapeutics, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation)

000-26422
(Commission
File Number)

94-3171943
(I.R.S. Employer
Identification Number)

**2600 Kelly Road, Suite 100
Warrington, Pennsylvania 18976
(215) 488-9300**

(Addresses, including zip code, and telephone numbers, including area code, of principal executive offices)

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 (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
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Securities registered pursuant to Section 12(g) of the Act:

Common Stock, par value \$0.001 per share

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 April 24, 2020 the Company and each of the holders of the Company's Series F Warrants (the "**Series F Holders**") dated as of December 24, 2018 (the "**Series F Warrant**") to purchase Common Stock, par value \$0.001 per share ("**Common Stock**") entered into Amendment No. 1 to the Series F Warrant to purchase Common Stock (the "**Series F Amendment**") whereby the expiration date of the Series F Warrant was extended from June 24, 2020 to December 24, 2020 in consideration for the Series F Holders agreeing to be bound by a lockup provision with respect to any shares of Common Stock or securities convertible, exchangeable or exercisable into shares of Common Stock that are beneficially owned, held or acquired by the Series F Holders (the "**Securities**"). Such lockup provision provides that the Series F Holders will not offer, sell, contract to sell, hypothecate, pledge or otherwise dispose of the Securities for a period of ninety (90) days following the earlier of (i) the closing date of the Company's next public offering of securities, or (ii) December 24, 2020.

The foregoing description of the Series F Amendment does not purport to be complete and is qualified in its entirety by the terms and conditions of the Series F Warrant, which is attached hereto as Exhibit 4.1 and incorporated herein by reference.

Item 3.02 Unregistered Sale of Equity Securities

The information in Item 1.01 above with regard to the Series F Amendment is incorporated in this Item 3.02 by reference. To the extent that the Series F Amendment constitutes an issuance of securities, the issuance is exempt under the exemption from registration provided by Section 3(a)(9) of the Securities Act of 1933, as amended.

Item 3.03 Material Modification to Rights of Security Holders.

The information contained in Item 5.03 below with regard to the Reverse Split (as defined below) is incorporated in this Item 3.03 by reference.

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

On April 28, 2020, the Company filed a Certificate of Amendment to the Amended and Restated Certificate of Incorporation (the "**Certificate of Amendment**") with the Secretary of State of the State of Delaware to effect a 1-for-3 (1:3) reverse stock split (the "**Reverse Split**") of the issued and outstanding shares of Common Stock. The Certificate of Amendment was filed on April 28, 2020, the Reverse split became effective at 12:01 a.m. Eastern Time on April 29, 2020, and the Common Stock began trading on a reverse stock split-adjusted basis on The OTC Market on the opening of trading on April 29, 2020. The trading symbol for the Common Stock will remain "WINT", although the letter "D" will be temporarily appended to the ticker symbol for twenty (20) trading days following the Reverse Split.

As a result of the Reverse Split, every three (3) shares of issued and outstanding Common Stock were automatically combined into one (1) issued and outstanding share of Common Stock without any change in the par value per share. No fractional shares will be issued as a result of the Reverse Split. Any fractional shares that would otherwise have resulted from the Reverse Split will be paid in cash. The Reverse Split will reduce the number of shares of Common Stock outstanding from 41,092,532 shares to approximately 13,697,395 shares, subject to adjustment for the payment of cash in lieu of fractional shares. After giving effect to the Reverse Split, the total number of shares of all classes of capital stock that the Company is authorized to issue remains 125,000,000 shares. In addition, proportionate adjustments will be made to the per share exercise price and the number of shares of Common Stock that may be purchased upon exercise of outstanding stock options granted by the Company, and the number of shares of Common Stock reserved for future issuance under the Company's equity incentive plans.

The Company's transfer agent is Continental Stock Transfer & Trust Company. The new CUSIP number for the Common Stock following the Reverse Split is 97382D 303.

The information set forth herein is qualified in its entirety by reference to the complete text of the Certificate of Amendment, a copy which is filed with this report as Exhibit 3.1 and is incorporated herein by reference.

On April 28, 2020, the Company issued a press release announcing the Reverse Split, which is being furnished as Exhibit 99.1 to this Report.

Item 9.01. Financial Statements and Exhibits

(d) Exhibits

Exhibit No.	Document
3.1	Certificate of Amendment of Amended and Restated Certificate of Incorporation as filed on April 28, 2020, with the Secretary of State of the State of Delaware
4.1	Form of Series F Warrant Amendment dated April 24, 2020.
99.1	Press Release of Windtree Therapeutics, Inc. dated April 28, 2020.

SIGNATURE

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: April 29, 2020

WINDTREE THERAPEUTICS, INC.

By: /s/ Craig E. Fraser

Name: Craig E. Fraser

Title: President and Chief Executive Officer

**CERTIFICATE OF AMENDMENT TO
THE AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
WINDTREE THERAPEUTICS, INC.**

(Pursuant to Sections 228 and 242 of the
General Corporation Law of the State of Delaware)

The Corporation was originally incorporated on November 6, 1992, under the name “Ansan, Inc.” The Corporation changed its name on November 25, 1997, to Discovery Laboratories, Inc. The Corporation changed its name again on April 15, 2016, to Windtree Therapeutics, Inc.

This Certificate of Amendment to the Amended and Restated Certificate of Incorporation was duly adopted in accordance with Sections 228 and 242 of the General Corporation Law of the State of Delaware (“**Delaware Corporation Law**”) and the amendments set forth below shall become effective upon the filing and effectiveness pursuant to the Delaware Corporation Law of this of Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Corporation:

1. Article Four of the Amended and Restated Certificate of Incorporation, of the Corporation is hereby amended by adding the following paragraph at the end thereof:

“Upon the filing and effectiveness (the “**Effective Time**”) pursuant to the Delaware Corporation Law of this Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Corporation, as amended, each three (3) share(s) of the Corporation’s common stock (“**Share**”), par value \$0.001 per share (the “**Common Stock**”), issued and outstanding immediately prior to the Effective Time shall automatically be combined into one (1) validly issued, fully paid and non-assessable share of Common Stock without any further action by the Corporation or the holder thereof, subject to the treatment of fractional share interests as described below (the “**Reverse Stock Split**”). No fractional shares will be issued as a result of the Reverse Stock Split. Instead, stockholders who otherwise would be entitled to receive a fractional shares of Common Stock as a consequence of the Reverse Stock Split will be entitled to receive cash in an amount equal to the product obtained by multiplying (i) the closing price of our Common Stock on the business day immediately preceding the effective date of the Reverse Stock Split as reported on the OTCQB® by (ii) the number of shares of our Common Stock held by the Stockholder that would otherwise have been exchanged for the fractional share interest. Each certificate that immediately prior to the Effective Time represented shares of Common Stock (“**Old Certificates**”), shall thereafter represent that number of shares of Common Stock into which the shares of Common Stock represented by the Old Certificate shall have been combined, subject to the elimination of fractional share interests as described above.”

2. This Certificate of Amendment shall become effective on April 29, 2020 at 12:01 a.m. Eastern Time.

3. Except as set forth in this Certificate of Amendment, the Amended and Restated Certificate of Incorporation, as amended, remains in full force and effect.

IN WITNESS WHEREOF, Windtree Therapeutics, Inc. has caused this Certificate of Amendment to be signed by its duly authorized officer this 28th day of April, 2020.

Windtree Therapeutics, Inc.

By: /s/ Craig E. Fraser
Craig E. Fraser
President and Chief Executive Officer

[Signature Page to Certificate of Amendment]

FORM OF AMENDMENT NO. 1 TO THE
SERIES F WARRANT TO PURCHASE COMMON STOCK

THIS AMENDMENT NO. 1 TO THE SERIES F WARRANT TO PURCHASE COMMON STOCK (this "Agreement") is made as of April 24, 2020, by and between Windtree Therapeutics, Inc., a Delaware corporation (the "Company") and the undersigned holder ("Holder"). The Company and the Holder are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, the Company issued to the Holder that certain Series F Warrant to Purchase Common Stock on December 24, 2018 (the "Warrant"), which, among other things, entitles the Holder to purchase [_____] shares of common stock, par value \$0.001 per share of the Company (the "Warrant Shares"); and

WHEREAS, in accordance with Section 8 of the Warrant, the Company and the Holder hereby wish to amend the Warrant (as more fully set forth below).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

1. **Definitions.** Any and all capitalized terms not specifically defined herein shall have the meanings ascribed to them in the Warrant.
2. **Insertion of New Section 1(g) into the Warrant.** A new Section 1(g) of the Warrant as set forth below is hereby inserted into the Warrant immediately following Section 1(f) thereof:

"The Holder irrevocably agrees with the Company that, for a period of ninety (90) days following the earlier of (i) the closing date of the Company's next public offering of securities, or (ii) December 24, 2020, the Holder will not offer, sell, contract to sell, hypothecate, pledge or otherwise dispose of (or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the Holder or any Attribution Party or any person in privity with the Holder or any Attribution Party), directly or indirectly, or establish or increase a put equivalent position or liquidate or decrease a call equivalent position within the meaning of Section 16 of the Exchange Act, with respect to, any shares of Common Stock or securities convertible, exchangeable or exercisable into, shares of Common Stock beneficially owned, held or hereafter acquired by the Holder (the "**Securities**"). Beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. In furtherance of the foregoing, the Company and any duly appointed transfer agent for the registration or transfer of the Securities are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Section 1(g)."

3. Amendment to Section 14(h) of the Warrant. Section 14(h) of each Warrant is hereby deleted in its entirety and replaced with:

“**Expiration Date**” means December 24, 2020 or, if such date falls on a day other than a Business Day or on which trading does not take place on the Principal Market (a “**Holiday**”), then the next date that is not a Holiday.”

4. Governing Law. This Agreement and the Parties’ rights and obligations hereunder shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware, without regard to the principles of conflicts of law thereof.

5. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, heirs and permitted assigns. No Party may assign its rights, duties or obligations under this Agreement without the prior written consent of the other Parties.

6. Counterparts. This Agreement may be executed in any number of separate counterparts, all of which shall constitute one agreement. Execution and delivery of this Agreement may be effected by pdf, facsimile, or other electronic transmission of signature pages.

7. Amendments. This Agreement may be amended, modified or waived only in a writing signed by each of the Parties hereto.

[Signature pages follow]

IN WITNESS WHEREOF, the undersigned have executed this Amendment No. 1 to Series F Warrant to Purchase Common Stock as of the date first written above.

WINDTREE THERAPEUTICS, INC.

By: _____

Name: Craig Fraser

Title: President and Chief Executive Officer

[Signature Page to Amendment No. 1 to Series F Warrant to Purchase Common Stock]

HOLDER:

Entity Name: _____

By: _____

Name: _____

Title: _____

[Signature Page to Amendment No. 1 to Series F Warrant to Purchase Common Stock]



Windtree Therapeutics Announces Reverse Stock Split

WARRINGTON, PA – April 28, 2020 – Windtree Therapeutics, Inc. (OTCQB: WINT), a biotechnology and medical device company focused on developing drug product candidates and medical device technologies to address acute cardiovascular and pulmonary diseases, today announced a 1-for-3 reverse stock split of its issued and outstanding common stock. The Company's common stock will begin trading on a split-adjusted basis at the opening of the OTCQB® Market on Wednesday, April 29, 2020 under the symbol "WINTD". After 20 trading days, the symbol will revert to WINT. Effective with the reverse split, a new CUSIP number of 97382D 303 has been assigned to the Company's common stock. The number of shares of common stock authorized under the Company's Amended and Restated Certificate of Incorporation is unchanged at 120 million shares.

The Company is pursuing a strategy intended to result in the listing of its common stock on The Nasdaq Capital Market® ("*Nasdaq*"). The Company implemented the reverse stock split to increase the bid price of its common stock on the OTCQB® market and potentially assure compliance with Nasdaq's initial listing requirement for minimum bid price. Before any listing of the common stock on Nasdaq could occur, Nasdaq will need to approve the Company's application for listing. There can be no assurance that the Company will satisfy other applicable requirements for listing its common stock on Nasdaq or that the Company's application to up-list its common stock will be approved.

On June 20, 2019, a majority of the Company's stockholders approved the reverse stock split by a written consent. The written consent granted the board of directors the authority to implement and determine the exact split ratio, which was set by a committee of the board of directors at 1-for-3 on April 8, 2020. An amendment to the Company's Amended and Restated Certificate of Incorporation to implement the reverse split stock was filed on April 28, 2020.

No fractional shares will be issued as a result of the reverse stock split. Stockholders who would otherwise be entitled to a fractional share will receive a prorated cash payment, without interest, based on the closing sales price on the OTCQB® Market of the Company's common stock on the business day immediately preceding the effective date of the reverse stock split. The Company's transfer agent, Continental Stock Transfer & Trust Company, which is also acting as the exchange agent for the reverse split, will send instructions to stockholders of record who hold stock certificates regarding the exchange of their old certificates for new certificates, should they wish to do so. Stockholders who hold their shares in brokerage accounts or "street name" are not required to take any action to effect the exchange of their shares.

About Windtree Therapeutics

Windtree Therapeutics, Inc. is a clinical-stage, biopharmaceutical and medical device company focused on the development of novel therapeutics intended to address significant unmet medical needs in important acute care markets. Windtree has three lead clinical development programs spanning respiratory and cardiovascular disease states, including istaroxime, a novel, dual-acting agent being developed to improve cardiac function in patients with acute heart failure and cardiogenic shock; AEROSURF®, an innovative combination drug/device product candidate that is designed to deliver the Company's proprietary synthetic, peptide-containing surfactant noninvasively to premature infants with respiratory distress syndrome (RDS); and rostafuroxin, a novel precision drug product being developed to target hypertensive patients with certain genetic profiles in the important group of patients with resistant hypertension. Windtree also has multiple pre-clinical programs, including potential heart failure therapies delivered orally that are based on SERCA2a mechanism of action.

For more information, please visit the Company's website at www.windtreetx.com.

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. We may, in some cases, use terms such as “predicts,” “believes,” “potential,” “proposed,” “continue,” “estimates,” “anticipates,” “expects,” “plans,” “intends,” “may,” “could,” “might,” “will,” “should” or other words that convey uncertainty of future events or outcomes to identify these forward-looking statements. Such statements are based on information available to the Company as of the date of this press release and are subject to numerous important factors, risks and uncertainties that may cause actual events or results to differ materially from the Company’s current expectations. Examples of such risks and uncertainties include: risks and uncertainties associated with the ongoing economic and social consequences of the COVID-19 pandemic, including any adverse impact on the company’s clinical trials or disruption in supply chain; the success and advancement of the clinical development programs for istaroxime, AEROSURF® and the Company’s other product candidates; the Company’s ability to secure significant additional capital as and when needed; the Company’s ability to access the debt or equity markets; the Company’s ability to manage costs and execute on its operational and budget plans; the results, cost and timing of the Company’s clinical development programs, including any delays to such clinical trials relating to enrollment or site initiation; risks related to technology transfers to contract manufacturers and manufacturing development activities; delays encountered by the Company, contract manufacturers or suppliers in manufacturing drug products, drug substances, aerosol delivery systems (ADS) and other materials on a timely basis and in sufficient amounts; risks relating to rigorous regulatory requirements, including that: (i) the FDA or other regulatory authorities may not agree with the Company on matters raised during regulatory reviews, may require significant additional activities, or may not accept or may withhold or delay consideration of applications, or may not approve or may limit approval of the Company’s product candidates, and (ii) changes in the national or international political and regulatory environment may make it more difficult to gain regulatory approvals and risks related to the Company’s efforts to maintain and protect the patents and licenses related to its product candidates; risks related to the size and growth potential of the markets for the Company’s product candidates, and the Company’s ability to service those markets; the Company’s ability to develop sales and marketing capabilities, whether alone or with potential future collaborators; and the rate and degree of market acceptance of the Company’s product candidates, if approved. These and other risks are described in the Company’s periodic reports, including the annual report on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, filed with or furnished to the Securities and Exchange Commission and available at www.sec.gov. Any forward-looking statements that the Company makes in this press release speak only as of the date of this press release. The Company assumes no obligation to update forward-looking statements whether as a result of new information, future events or otherwise, after the date of this press release.

Contact Information:

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Senior Vice President and Chief Financial Officer

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