

ONCOSEC MEDICAL Inc
Form 8-K
March 29, 2019

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): **March 29, 2019**

ONCOSEC MEDICAL INCORPORATED

(Exact Name of Registrant as Specified in Charter)

| | | |
|---------------------------------------------------|-----------------------------|--------------------------------------|
| Nevada | 000-54318 | 98-0573252 |
| (State or Other Jurisdiction of Incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

**3565 General Atomics Court, Suite 100
San Diego, California 92121**

24 North Main Street

Pennington, NJ 08534-2218

(Address of Principal Executive Offices)

(855) 662-6732

(Registrant's telephone number, including area code)

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.
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act.
- Pre-commencement communications pursuant to Rule 14d-2b under the Exchange Act.
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act.

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 March 29, 2019, OncoSec Medical Incorporated (the “Company”), entered into a common stock purchase agreement (the “Purchase Agreement”) with Aspire Capital Fund, LLC, an Illinois limited liability company (“Aspire Capital”) which provides that, upon the terms and subject to the conditions and limitations set forth therein, Aspire Capital is committed to purchase up to an aggregate of \$20 million of shares of the Company’s common stock at the Company’s request from time to time during a 30-month period. Upon execution of the Purchase Agreement, the Company agreed to sell to Aspire Capital 4,006,731 shares of common stock at-market price of \$0.50 per share for proceeds of \$2,000,000. The Company has filed with the SEC a prospectus supplement to the Company’s effective shelf registration statement on Form S-3 (File No. 333-213036) registering all of the shares of common stock that may be offered to Aspire Capital from time to time.

Under the Purchase agreement, on any trading day selected by the Company, the Company has the right, in its sole discretion, to present Aspire Capital with a purchase notice (each, a “Purchase Notice”), directing Aspire Capital (as principal) to purchase up to 300,000 shares of the Company’s common stock per business day, up to \$20 million of the Company’s common stock in the aggregate at a per share price (the “Purchase Price”) equal to the lesser of:

the lowest sale price of the Company’s common stock on the purchase date; or

the arithmetic average of the three (3) lowest closing sale prices for the Company’s common stock during the ten (10) consecutive trading days ending on the trading day immediately preceding the purchase date.

The Company and Aspire Capital also may mutually agree to increase the number of shares that may be sold to as much as an additional 2,000,000 shares per business day.

There are no trading volume requirements or restrictions under the Purchase Agreement, and the Company will control the timing and amount of sales of the Company’s common stock to Aspire Capital. Aspire Capital has no right to require any sales by the Company, but is obligated to make purchases from the Company as directed by the Company in accordance with the Purchase Agreement. There are no limitations on use of proceeds, financial or business covenants, restrictions on future financing transactions, rights of first refusal, participation rights, penalties or liquidated damages in the Purchase Agreement. In consideration for entering into the Purchase Agreement, concurrently with the execution of the Purchase Agreement, the Company issued to Aspire Capital 1,202,019 shares of the Company’s common stock (the “Commitment Shares”) which represents 3% of the aggregate commitment. The Purchase Agreement may be terminated by the Company at any time, at its discretion, without any cost to the Company. Aspire Capital has agreed that neither it nor any of its agents, representatives and affiliates will engage in any direct or indirect short-selling or hedging of the Company’s common stock during any time prior to the termination of the Purchase Agreement. Any proceeds from the Company receives under the Purchase Agreement are expected to be used for working capital and general corporate purposes.

The foregoing is a summary description of certain terms of the Purchase Agreement and the Registration Rights Agreement and, by its nature, is incomplete. Copies of the Purchase Agreement and Registration Rights Agreement are filed herewith as Exhibits 10.1 and 4.1, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

On November 2, 2018, the Company entered into a Sales Agreement between the Company and Cantor Fitzgerald & Co. regarding an at-the-market offering of up to \$30,000,000 worth of shares of the Company's common stock. The Company has not yet utilized this at-the-market program and does not intend to utilize it in the near future.

The Company is filing the opinion of its counsel, Alston & Bird LLP, relating to the legality of the shares of common stock offered and sold pursuant to the Purchase Agreement, as Exhibit 5.1 hereto.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

| Exhibit Number | Description |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | <u>Registration Rights Agreement, dated March 29, 2019, between OncoSec Medical Incorporated and Aspire Capital Fund, LLC *</u> |
| 5.1 | <u>Opinion of Alston & Bird LLP*</u> |
| 10.1 | <u>Common Stock Purchase Agreement, dated March 29, 2019 between OncoSec Medical Incorporated and Aspire Capital Fund, LLC *</u> |
| 23.1 | <u>Consent of Alston & Bird (included in Exhibit 5.1)</u> |

*Filed herewith.

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.

**ONCOSEC MEDICAL
INCORPORATED**
(Registrant)

Date: March 29, 2019

By: */s/ Daniel J. O'Connor*
Name: Daniel J. O'Connor
Title: Chief Executive Officer and President

