
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549
FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Spruce Biosciences, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

611 Gateway Boulevard, Suite 740
South San Francisco, California
(Address of Principal Executive Offices)

83-2154263
(I.R.S. Employer
Identification No.)

94080
(Zip Code)

**2020 Equity Incentive Plan
2020 Employee Stock Purchase Plan**
(Full titles of the plans)

Javier Szwarcberg, M.D., MPH
Chief Executive Officer
Spruce Biosciences, Inc.
611 Gateway Boulevard, Suite 740
South San Francisco, California 94080
(415) 655-4168

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:
Alexa M. Smith
Cooley LLP
10265 Science Center Drive
San Diego, California 92121
(858) 550-6000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a 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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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.

EXPLANATORY NOTE

Pursuant to General Instruction E of Form S-8, Spruce Biosciences, Inc. (the “Registrant”) is filing this Registration Statement on Form S-8 with the Securities and Exchange Commission (the “Commission”) for the purpose of registering (i) 1,180,050 additional shares of its common stock, par value \$0.0001 per share (“Common Stock”) under the Spruce Biosciences, Inc. 2020 Equity Incentive Plan (the “2020 Plan”), pursuant to the provisions of the 2020 Plan providing for an automatic increase in the number of shares of Common Stock reserved and available for issuance under the 2020 Plan on January 1, 2023, and (ii) 236,010 additional shares of its Common Stock under the Spruce Biosciences, Inc. 2020 Employee Stock Purchase Plan (the “2020 ESPP,” and together with the 2020 Plan, the “Plans”), pursuant to the provisions of the 2020 ESPP providing for an automatic increase in the number of shares of Common Stock reserved and available for issuance under the 2020 ESPP on January 1, 2023. In accordance with the instructional note to Part I of Form S-8 as promulgated by the Commission, the information specified by Part I of the Form S-8 has been omitted from this Registration Statement.

The Registrant previously registered (i) shares of its Common Stock for issuance under the Plans on a Registration Statement on [Form S-8](#) filed with the Commission on October 9, 2020 (File No. 333-249431), (ii) additional shares of its Common Stock for issuance under the Plans on a Registration Statement on [Form S-8](#) filed with the Commission on March 22, 2021 (File No. 333-254593) and (iii) additional shares of its Common Stock for issuance under the Plans and for issuance upon the exercise of outstanding stock options granted outside the 2020 Plan but pursuant to the terms of the 2020 Plan as if such stock options were granted under the 2020 Plan, as inducement grants pursuant to Rule 5635(c)(4) of the Nasdaq Listing Rules on a Registration Statement on [Form S-8](#) filed with the Commission on March 14, 2022 (File No. 333-263534) (collectively, the “Prior Registration Statements”). Pursuant to General Instruction E to Form S-8, this Registration Statement hereby incorporates by reference the contents of the Prior Registration Statements.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Registrant hereby incorporates by reference into this Registration Statement the following documents previously filed by the Registrant with the Commission:

- (a) The Registrant’s Annual Report on Form 10-K, filed with the Commission on [March 16, 2023](#);
- (b) The Registrant’s Current Reports on Form 8-K, filed with the Commission on [January 9, 2023](#) and [February 9, 2023](#); and
- (c) The description of the Registrant’s Common Stock contained in the Registrant’s Registration Statement on [Form 8-A](#) filed on October 5, 2020 (File No. 001-39594) under Section 12(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date 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 into this Registration Statement and to be a part hereof from the date of filing of such documents; provided, however, that documents or portions thereof that are furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this Registration Statement. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement herein or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not constitute a part of this Registration Statement, except as so modified or superseded.

Item 8. Exhibits.

The exhibits to this Registration Statement are listed below:

Exhibit Number	Description
4.1	<u>Amended and Restated Certificate of Incorporation of the Registrant (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 001-39594), as amended, filed with the Commission on October 14, 2020).</u>
4.2	<u>Amended and Restated Bylaws of the Registrant (incorporated herein by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K (File No. 001-39594), as amended, filed with the Commission on October 14, 2020).</u>
4.3	<u>Form of Common Stock Certificate of the Registrant (incorporated herein by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-1 (File No. 333-248924), as amended, filed with the Commission on October 5, 2020).</u>
4.4	<u>Amended and Restated Investors' Rights Agreement by and among the Registrant and certain of its Stockholders, dated February 19, 2020 (incorporated herein by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-1 (File No. 333-248924), as amended, filed with the Commission on September 18, 2020).</u>
5.1*	<u>Opinion of Cooley LLP.</u>
23.1*	<u>Consent of BDO USA, LLP, independent registered public accounting firm.</u>
23.2*	<u>Consent of Cooley LLP (included in Exhibit 5.1).</u>
24.1*	<u>Power of Attorney (included on the signature page).</u>
99.1	<u>Spruce Biosciences, Inc. 2020 Equity Incentive Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Registration Statement on Form S-1 (File No. 333-248924), as amended, filed with the Commission on October 5, 2020).</u>
99.2	<u>Forms of Grant Notice, Stock Option Agreement and Notice of Exercise under the Spruce Biosciences, Inc. 2020 Equity Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registrant's Registration Statement on Form S-1 (File No. 333-248924), as amended, filed with the Commission on September 18, 2020).</u>
99.3	<u>Forms of Restricted Stock Unit Grant Notice and Award Agreement under the Spruce Biosciences, Inc. 2020 Equity Incentive Plan (incorporated by reference to Exhibit 10.5 to the Registrant's Annual Report on Form 10-K (File No. 001-39594), filed with the Commission on March 16, 2023).</u>
99.4	<u>Spruce Biosciences, Inc. 2020 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.5 to the Registrant's Registration Statement on Form S-1 (File No. 333-248924), as amended, filed with the Commission on October 5, 2020).</u>
99.5	<u>Spruce Biosciences, Inc. 2020 Employee Stock Purchase Plan Offering Document (incorporated by reference to Exhibit 10.6 to the Registrant's Annual Report on Form 10-K (File No. 001-39594), filed with the Commission on March 22, 2021).</u>
107*	<u>Filing Fee Table.</u>

*Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Daly City, State of California, on March 16, 2023.

SPRUCE BIOSCIENCES, INC.

By: /s/ Javier Szwarcberg, M.D., MPH
Javier Szwarcberg, M.D., MPH
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Javier Szwarcberg, M.D., MPH and Samir Gharib, and each one of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in their name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to sign any registration statement for the same offering covered by this registration statement that is to be effective on filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, 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 to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, 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/ Javier Szwarcberg, M.D., MPH</u> Javier Szwarcberg, M.D., MPH	Chief Executive Officer and Director (Principal Executive Officer)	March 16, 2023
<u>/s/ Samir Gharib</u> Samir Gharib	President and Chief Financial Officer (Principal Financial and Accounting Officer)	March 16, 2023
<u>/s/ Michael Grey</u> Michael Grey	Executive Chairman	March 16, 2023
<u>/s/ Tiba Aynechi, Ph.D.</u> Tiba Aynechi, Ph.D.	Director	March 16, 2023
<u>/s/ Dina Chaya, Ph.D., C.F.A.</u> Dina Chaya, Ph.D., C.F.A.	Director	March 16, 2023
<u>/s/ Bali Muralidhar, M.D., Ph.D.</u> Bali Muralidhar, M.D, Ph.D.	Director	March 16, 2023
<u>/s/ Niall O'Donnell, Ph.D.</u> Niall O'Donnell, Ph.D.	Director	March 16, 2023
<u>/s/ Camilla V. Simpson, M.Sc.</u> Camilla V. Simpson, M.Sc.	Director	March 16, 2023
<u>/s/ Daniel Spiegelman</u> Daniel Spiegelman	Director	March 16, 2023
<u>/s/ Kirk Ways, M.D., Ph.D.</u> Kirk Ways, M.D., Ph.D.	Director	March 16, 2023



Kristin VanderPas
+1 415 693 2097
kvanderpas@cooley.com

March 16, 2023

Spruce Biosciences, Inc.
611 Gateway Blvd, Suite 740
South San Francisco, California 94080

Ladies and Gentlemen:

We have acted as counsel to Spruce Biosciences, Inc., a Delaware corporation (the "**Company**"), in connection with the filing of a Registration Statement on Form S-8 (the "**Registration Statement**") with the Securities and Exchange Commission (the "**Commission**") covering the offering of up to 1,416,060 shares (the "**Shares**") of the Company's common stock, par value \$0.0001 per share ("**Common Stock**"), consisting of (i) 1,180,050 shares of Common Stock issuable pursuant to the Company's 2020 Equity Incentive Plan (the "**2020 Plan**") and (ii) 236,010 shares of Common Stock issuable pursuant to the Company's 2020 Employee Stock Purchase Plan (together with the 2020 Plan, the "**Plans**").

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and related prospectuses, (b) the Company's certificate of incorporation and bylaws, each as currently in effect, (c) the Plans and (d) originals or copies certified to our satisfaction of such records, documents, 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 of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials and the due authorization, execution and delivery of all documents by all persons other than by the Company where authorization, execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

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 Plans, the Registration Statement and related prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to 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. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission thereunder.



March 16, 2023
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Sincerely,

Cooley LLP

By: /s/ Kristin VanderPas
Kristin VanderPas

Cooley LLP 3 Embarcadero Center, 20th Floor San Francisco, CA 94111
t: (415) 693-2000 f: (415) 693-2222 cooley.com

Consent of Independent Registered Public Accounting Firm

Spruce Biosciences, Inc.
South San Francisco, California

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 of our report dated March 16, 2023, relating to the financial statements of Spruce Biosciences, Inc. appearing in the Company's Annual Report on Form 10-K for the year ended December 31, 2022.

/s/ BDO USA, LLP
Las Vegas, Nevada

March 16, 2023

Calculation of Filing Fee Table

Form S-8
(Form Type)

Spruce Biosciences, Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽⁴⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee ⁽²⁾
Equity	2020 Equity Incentive Plan Common Stock, \$0.0001 par value per share	Other ⁽³⁾	1,180,050 ⁽⁴⁾	\$2.29 ⁽³⁾	\$2,702,314.50	.00011020	\$298
Equity	2020 Employee Stock Purchase Plan Common Stock, \$0.0001 par value per share	Other ⁽⁵⁾	236,010 ⁽⁶⁾	\$1.95 ⁽⁵⁾	\$460,219.50	.00011020	\$51
Total Offering Amounts					\$3,162,534.00		—
Total Fees Previously Paid							—
Total Fee Offsets							—
Net Fee Due							\$349

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of common stock (“Common Stock”) of Spruce Biosciences, Inc. (the “Registrant”) that become issuable under the Registrant’s 2020 Equity Incentive Plan (the “2020 Plan”) and the Registrant’s 2020 Employee Stock Purchase Plan (the “2020 ESPP”) by reason of any stock dividend, stock split, recapitalization or other similar transaction.
- (2) The Registrant does not have any fee offsets.
- (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) and 457(c) of the Securities Act. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price are calculated using the average of the high and low prices of the Common Stock as reported on Nasdaq Global Select Market on March 10, 2023.

- (4) Represents shares of Common Stock that were automatically added to the shares available for issuance under the 2020 Plan on January 1, 2023 pursuant to the automatic increase feature of such plan, which provides that the number of shares reserved for issuance under the 2020 Plan will automatically increase on January 1st of each year, for a period of ten years, commencing on January 1, 2021 and ending on (and including) January 1, 2030, in an amount equal to 5% of the total number of shares of Common Stock outstanding on December 31 of the preceding year; provided, however, that the Registrant's board of directors may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of the Registrant's Common Stock.
 - (5) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) and 457(c) of the Securities Act. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price are calculated using the average of the high and low prices of the Common Stock as reported on Nasdaq Global Select Market on March 10, 2023, multiplied by 85%.
 - (6) Represents shares of Common Stock that were automatically added to the shares available for issuance under the 2020 ESPP on January 1, 2023 pursuant to the automatic increase feature of such plan, which provides that the number of shares reserved for issuance under the 2020 ESPP will automatically increase on January 1st of each year, for a period of ten years, commencing on January 1, 2021 and ending on (and including) January 1, 2030, in an amount equal to the lesser of (i) 1% of the total number of shares of Common Stock outstanding on December 31st of the preceding calendar year, (ii) 441,280 shares of Common Stock and (iii) a number of shares of Common Stock designated by action of the Registrant's board of directors prior to the applicable January 1st.
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