

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): January 24, 2023

**PHIO PHARMACEUTICALS CORP.**  
(Exact name of registrant as specified in its charter)

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

**001-36304**  
(Commission File Number)

**45-3215903**  
(I.R.S. Employer Identification No.)

**257 Simarano Drive, Suite 101**  
**Marlborough, Massachusetts**  
(Address of principal executive offices)

**01752**  
(Zip Code)

Registrant's telephone number, including area code: **(508) 767-3861**

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:

<u>Title of each class of securities:</u>	<u>Trading Symbol(s):</u>	<u>Name of exchange on which registered:</u>
<b>Common Stock, par value \$0.0001 per share</b>	<b>PHIO</b>	<b>The NASDAQ Capital Market</b>

Securities registered pursuant to Section 12(g) of the Act: None

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.

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**Item 3.03 Material Modification to Rights of Security Holders.**

To the extent required by Item 3.03 of Form 8-K, the information regarding the Reverse Stock Split (as defined herein) contained in Item 5.03 of this Current Report on Form 8-K is incorporated by reference herein.

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

At the Special Meeting of Stockholders of Phio Pharmaceuticals Corp. (“the Company”) held on January 4, 2023, the stockholders of the Company approved an amendment to the Company’s Amended and Restated Certificate of Incorporation to implement a reverse stock split of the Company’s common stock, par value \$0.0001 per share, with the ratio to be determined by the Board of Directors (the “Board”) of the Company, within a range of not less than 1-for-2 or greater than 1-for-25. Subsequently on January 17, 2023, the Board determined to fix the ratio for the reverse stock split at 1-for-12. Thereafter, on January 24, 2023, the Company filed a Certificate of Amendment to its Amended and Restated Certificate of Incorporation (the “Certificate of Amendment”) with the Secretary of State of the State of Delaware, to implement the 1-for-12 reverse split of its common stock (the “Reverse Stock Split”). The Reverse Stock Split will be effective as of 12:01 a.m. (Eastern Time) on January 26, 2023, and the Company’s common stock will begin trading on The Nasdaq Capital Market on a post-split basis on January 26, 2023.

As a result of the Reverse Stock Split, every twelve (12) shares of the Company’s issued and outstanding common stock, par value \$0.0001, will be converted into one (1) share of common stock, par value \$0.0001, reducing the number of issued and outstanding shares of the Company’s common stock from approximately 13.7 million shares to approximately 1.1 million shares. The Company’s transfer agent, Computershare Trust Company, N. A. (“Computershare”), will provide instructions to stockholders of record regarding the process for exchanging shares.

Because the Certificate of Amendment did not reduce the number of authorized shares of the Company’s common stock, the effect of the Certificate of Amendment and the Reverse Stock Split is to increase the number of shares of common stock available for issuance relative to the number of shares issued and outstanding. The Reverse Stock Split did not alter the par value of the Company’s common stock or modify any voting rights or other terms of the common stock.

No fractional shares will be issued in connection with the Reverse Stock Split. Stockholders who otherwise would be entitled to receive fractional shares because they hold a number of pre-Reverse Stock Split shares of the Company’s common stock not evenly divisible by twelve (12), will, in lieu of a fractional share, be entitled, upon surrender to the exchange agent of certificate(s) representing their pre-split shares or upon conversion of their shares held in book-entry, to receive a cash payment equal to the fraction to which the stockholder would otherwise be entitled multiplied by \$6.51 in lieu of fractional shares based on the average of the closing price per share of the Company’s common stock as reported by Bloomberg L.P. during the ten consecutive trading days ending on January 24, 2023 (as adjusted to give effect to the Reverse Stock Split).

Computershare will be issuing all of the post-split shares through their paperless Direct Registration System (“DRS”), also known as “book-entry form”. Computershare will hold the shares in an account set up for the stockholder.

All book-entry or other electronic positions representing issued and outstanding shares of the Company's common stock will be automatically adjusted. Those stockholders holding common stock in "street name" will receive instructions from their brokers.

In addition, pursuant to their terms, a proportionate adjustment will be made to the per share exercise price and number of shares issuable under all of the Company's outstanding equity awards and warrants to purchase shares of common stock, and the number of shares authorized and reserved for issuance pursuant to the Company's equity incentive plan and employee stock purchase plan will be reduced proportionately.

After the Reverse Stock Split, the trading symbol for the Company's common stock will continue to be "PHIO." The new CUSIP number for the Company's common stock is 71880W402.

The above description of the Certificate of Amendment and the Reverse Stock Split is a summary of the material terms thereof and is qualified in its entirety by reference to the Certificate of Amendment, a copy of which is attached hereto as Exhibit 3.1, as filed with the Secretary of State of the State of Delaware on January 24, 2023.

#### **Item 8.01 Other Events.**

On January 25, 2023, the Company issued a press release relating to the matters described in Item 5.03 above. A copy of the press release is attached as Exhibit 99.1 to this report and is incorporated herein by reference.

#### **Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

<b>Number</b>	<b>Description</b>
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3.1	<a href="#">Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Phio Pharmaceuticals Corp., filed with the Delaware Secretary of State on January 24, 2023</a>
99.1	<a href="#">Press Release issued by the Company on January 25, 2023</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

**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.

**PHIO PHARMACEUTICALS CORP.**

Date: January 25, 2023

By: /s/ Robert Bitterman  
Name: Robert Bitterman  
Title: Interim Executive Chairman

**CERTIFICATE OF AMENDMENT TO THE  
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF  
PHIO PHARMACEUTICALS CORP.**

Phio Pharmaceuticals Corp. (the “**Corporation**”), a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the “**Delaware General Corporation Law**”), hereby certifies as follows:

- FIRST: That the Board of Directors of the Corporation has duly adopted resolutions authorizing the Corporation to execute and file with the Secretary of State of the State of Delaware this Certificate of Amendment to the Amended and Restated Certificate of Incorporation, as amended (this “**Amendment**”) to combine each twelve (12) outstanding shares of the Corporation’s Common Stock, par value \$0.0001 per share (the “**Common Stock**”), into one (1) validly issued, fully paid and non-assessable share of Common Stock.
- SECOND: That this Amendment was duly adopted in accordance with the terms of the Amended and Restated Certificate of Incorporation, as amended, and the provisions of the Delaware General Corporation Law by the Board of Directors and stockholders of the Corporation.
- THIRD: That upon the effectiveness of this Amendment, the Amended and Restated Certificate of Incorporation, as amended, is hereby amended such that subsection (a) of ARTICLE IV is amended and restated in its entirety to read as set forth below, with no changes to be made to the subsequent sections of ARTICLE IV:

(a) Authorized Shares. The total number of shares of stock which the Corporation shall have authority to issue is 110,000,000 shares, consisting of 100,000,000 shares of Common Stock, par value \$0.0001 per share (“**Common Stock**”) and 10,000,000 shares of Preferred Stock, par value \$0.0001 per share (“**Preferred Stock**”). Upon the effectiveness of this Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Corporation, each twelve (12), of the Corporation’s Common Stock issued and outstanding at such time shall, automatically and without any further action on the part of the Corporation or the holder thereof, be combined into one (1) validly issued, fully paid and non-assessable share of Common Stock (the “**Reverse Stock Split**”). The par value of the Common Stock following the Reverse Stock Split shall remain \$0.0001 per share. No fractional shares shall be issued, and, in lieu thereof, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Common Stock, as determined by the Board of Directors. Each certificate that immediately prior to the Effective Time represented shares of Common Stock (an “**Old Certificate**”) 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.

- FOURTH: This Amendment shall be effective as of January 26, 2023, at 12:01 a.m., Eastern Time (the “**Effective Time**”).

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to the Amended and Restated Certificate of Incorporation to be executed by Robert J. Bitterman, Authorized Officer of the Corporation, this 24th day of January, 2023.

**PHIO PHARMACEUTICALS CORP.**

By: /s/ Robert J. Bitterman  
Name: Robert J. Bitterman  
Title: Authorized Officer



## Phio Pharmaceuticals Announces Reverse Stock Split

MARLBOROUGH, Mass., January 25, 2023 /PRNewswire/ -- Phio Pharmaceuticals Corp. (Nasdaq: PHIO), a clinical stage biotechnology company whose proprietary INTASYL™ RNAi platform technology is designed to make immune cells more effective in killing tumor cells, today announced that the Company's Board of Directors has approved a reverse stock split of its shares of common stock at a ratio of 1-for-12. The reverse stock split will become effective at 12:01 a.m. Eastern Time on January 26, 2023 and the Company's common stock will open for trading on The Nasdaq Capital Market on a post-split basis on January 26, 2023 under the Company's existing trading symbol, "PHIO." At such time, the Company's common stock will also commence trading with a new CUSIP number, 71880W402.

The reverse stock split is being implemented to increase the per share trading price of the Company's common stock, for the purpose of ensuring a share price high enough to comply with the minimum \$1.00 bid price requirement for continued listing on The Nasdaq Capital Market.

At the effective time of the reverse stock split, every twelve (12) shares of Phio common stock issued and outstanding will be combined into one (1) share of common stock issued and outstanding, with no change to the par value of \$0.0001 per share. This will reduce the Company's outstanding common stock from approximately 13.7 million shares to approximately 1.1 million shares. No fractional shares of common stock will be issued as a result of the reverse stock split and instead holders of Phio common stock will receive a cash payment in lieu of fractional shares to which they would otherwise be entitled. The shares underlying the Company's outstanding equity awards and warrants will also be adjusted accordingly. The reverse stock split affects all stockholders uniformly and will not alter any stockholder's percentage interest in the Company's common stock, except for adjustments that may result from the treatment of fractional shares.

The Company has retained its transfer agent, Computershare Trust Company, N.A. ("Computershare"), to act as its exchange agent for the reverse split. Shareholders with shares held in certificate form will receive from Computershare instructions regarding the exchange of their certificates. Shareholders that hold shares in book-entry form or hold their shares in brokerage accounts are not required to take any action and will see the impact of the reverse stock split reflected in their accounts, subject to brokers' particular processes. Beneficial holders of Phio common stock are encouraged to contact their bank, broker, custodian or other nominee with questions regarding procedures for processing the reverse stock split.

Additional information regarding the reverse stock split is available in the definitive proxy statement filed with the U.S. Securities and Exchange Commission on November 30, 2022 by the Company.

### About Phio Pharmaceuticals

Phio Pharmaceuticals Corp. (Nasdaq: PHIO) is a clinical stage biotechnology company whose proprietary INTASYL™ RNAi technology is designed to make immune cells more effective in killing tumor cells. INTASYL is the only self-delivering RNAi technology focused on immuno-oncology therapeutics. INTASYL drugs precisely target specific proteins that reduce the body's ability to fight cancer, without the need for specialized formulations or drug delivery systems.

For additional information, visit the Company's website, [www.phio.pharma.com](http://www.phio.pharma.com).

## Forward Looking Statements

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements can be identified by words such as "intends," "believes," "anticipates," "indicates," "plans," "expects," "suggests," "may," "would," "should," "potential," "designed to," "will," "ongoing," "estimate," "forecast," "target," "predict," "could" and similar references, although not all forward-looking statements contain these words. Forward-looking statements are neither historical facts nor assurances of future performance and include statements regarding compliance with the minimum bid price requirement and other applicable Nasdaq continued listing standards and the effect of the reverse stock split, including the estimated number of shares of common stock outstanding after effecting the reverse stock split. These statements are based only on our current beliefs, expectations and assumptions regarding the future of our business, future plans and strategies, projections, anticipated events and trends, the economy and other future conditions. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and many of which are outside of our control. Our actual results may differ materially from those indicated in the forward-looking statements as a result of a number of important factors, including, but not limited to, the impact to our business and operations by the ongoing coronavirus pandemic, military conflict between Ukraine and Russia, inflationary pressures, rising interest rates, recession fears, the development of our product candidates, results from our preclinical and clinical activities, our ability to execute on business strategies, our ability to develop our product candidates with collaboration partners, and the success of any such collaborations, the timeline and duration for advancing our product candidates into clinical development, the timing or likelihood of regulatory filings and approvals, the success of our efforts to commercialize our product candidates if approved, our ability to manufacture and supply our product candidates for clinical activities, and for commercial use if approved, the scope of protection we are able to establish and maintain for intellectual property rights covering our technology platform, our ability to obtain future financing, market and other conditions and those identified in our Annual Report on Form 10-K and subsequent Quarterly Reports on Form 10-Q under the caption "Risk Factors" and in other filings the Company periodically makes with the SEC. Readers are urged to review these risk factors and to not act in reliance on any forward-looking statements, as actual results may differ from those contemplated by our forward-looking statements. Phio does not undertake to update forward-looking statements to reflect a change in its views, events or circumstances that occur after the date of this release, except as required by law.

### Contact

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### Investor Contact

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