

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-8
REGISTRATION STATEMENT**
UNDER
THE SECURITIES ACT OF 1933

EyePoint Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

26-2774444
(I.R.S. Employer
Identification No.)

480 Pleasant Street, Watertown, MA
(Address of Principal Executive Offices)

02472
(Zip Code)

EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan
EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan
(Full title of the plans)

Nancy Lurker
President and Chief Executive Officer
480 Pleasant Street
Watertown, MA 02472
(Name and address of agent for service)

(617) 926-5000
(Telephone number, including area code, of agent for service)

Copies to:

Steven J. Abrams, Esq.
Stephen M. Nicolai, Esq.
Hogan Lovells US LLP
1735 Market Street, 23rd Floor
Philadelphia, PA 19103
(267) 675-4600

Ron Honig, Esq.
Chief Legal Officer & Company Secretary
480 Pleasant Street
Watertown, MA 02472
(617) 926-5000

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
Non-accelerated filer

Accelerated filer
Smaller reporting company
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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee

Common Stock, par value \$0.001 per share, issuable under the EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan, as amended	2,500,000 ⁽²⁾	\$8.285 ⁽³⁾	\$20,712,500 ⁽³⁾	\$2,260.00
Common Stock, par value \$0.001 per share, issuable under the EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended	250,000 ⁽⁴⁾	\$8.285 ⁽³⁾	\$2,071,250 ⁽³⁾	\$226.00
Total	2,750,000		\$22,783,750	\$2,486.00

- (1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also be deemed to cover such additional securities which become issuable by reason of any stock dividend, stock split, recapitalization or any other similar transactions.
- (2) Consists of 2,500,000 shares of common stock of EyePoint Pharmaceuticals, Inc. (the “Registrant”), par value \$0.001 per share (“Common Stock”), available for issuance under the EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan, as amended (the “2016 Plan”).
- (3) Estimated solely for the purpose of calculating the registration fee under Rule 457(c) and (h) of the Securities Act on the basis of the average of the high and low sales price per share of Common Stock on August 3, 2021, as reported on the Nasdaq Global Market.
- (4) Consists of 250,000 shares of Common Stock of the Registrant available for issuance under the EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended (the “2019 Plan”).

EXPLANATORY NOTE

EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan

This Registration Statement on Form S-8 (the “Registration Statement”) is being filed for the purpose of registering additional shares of common stock of EyePoint Pharmaceuticals, Inc. (the “Registrant”), par value \$0.001 per share (the “Common Stock”), in connection with the EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan, as amended (the “2016 Plan”), for which Registration Statements on Form S-8 relating to the 2016 Plan are effective. This Registration Statement on Form S-8 registers an additional 2,500,000 shares of Common Stock issuable pursuant to the 2016 Plan. The contents of the previous Registration Statements on Form S-8 filed by the Registrant with the Securities and Exchange Commission (the “Commission”) for the 2016 Plan on February 22, 2017 (File No. 333-216166) and August 8, 2019 (File No. 333-233137), to the extent not otherwise amended or superseded by the contents hereof, are incorporated by reference into this Registration Statement pursuant to General Instruction E of Form S-8.

EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan

This Registration Statement is also being filed for the purpose of registering an additional 250,000 shares of Common Stock issuable pursuant to the EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended (the “2019 Plan” and together with the 2016 Plan, the “Plans”), for which a Registration Statement on Form S-8 relating to the 2019 Plan is effective. The contents of the previous Registration Statement on Form S-8 filed by the Registrant with the Commission for the 2019 Plan on August 8, 2019 (File No. 333-233137), to the extent not otherwise amended or superseded by the contents hereof, are incorporated by reference into this Registration Statement pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents of the Registrant filed with the Commission are incorporated by reference in this Registration Statement as of their respective dates:

- (a) the Registrant’s Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2020, filed with the Commission on March 12, 2021, as amended by the Registrant’s Annual Report on [Form 10-K/A](#) filed with the Commission on May 4, 2021;
- (b) the Registrant’s Quarterly Reports on Form 10-Q for the quarterly periods ended [March 31, 2021](#) and [June 30, 2021](#), filed with the Commission on May 5, 2021 and August 6, 2021, respectively;
- (c) the Registrant’s Current Reports on Form 8-K filed with the Commission on [January 4, 2021](#) (except Item 2.02 and the portions of Item 99.1 covered by Item 2.02), [January 11, 2021](#), [January 28, 2021](#), [February 3, 2021](#), [June 2, 2021](#) and [June 24, 2021](#); and
- (d) the description of the Common Stock contained in the Registrant’s Registration Statement on [Form 20-F](#) filed with the Commission on January 20, 2005 and subsequent Current Report on Form 8-K filed under Rule 12g-3 of the Exchange Act on June 19, 2008, as updated by [Exhibit 4.5](#) to Registrant’s Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2020, including any amendments or reports filed for the purpose of updating such description.

All reports and other documents filed by the Registrant after the date hereof pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act but 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 herein and to be part hereof from the date of filing of such reports and documents, except for the documents, or portions thereof, that are “furnished” rather than filed with the Commission.

For the purposes of 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 to the extent that a statement contained herein or in any other subsequently filed document which 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 be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 8. Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
4.1	<u>Certificate of Incorporation of pSivida Corp. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K12G3 filed with the Commission on June 19, 2008)</u>
4.2	<u>Certificate of Amendment of the Certificate of Incorporation of pSivida Corp. (incorporated herein by reference to Exhibit 3.2 to the Registrant's Annual Report on Form 10-K for the year ended June 30, 2017 filed with the Commission on September 13, 2017)</u>
4.3	<u>Certificate of Correction to Certificate of Amendment of the Certificate of Incorporation of pSivida Corp. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on April 2, 2018)</u>
4.4	<u>Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on June 27, 2018)</u>
4.5	<u>Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on June 23, 2020)</u>
4.6	<u>Certificate of Amendment of the Certificate of Incorporation, as amended, of EyePoint Pharmaceuticals, Inc. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on December 8, 2020)</u>
4.7	<u>By-Laws of EyePoint Pharmaceuticals, Inc. (incorporated herein by reference to Exhibit 3.5 to the Registrant's Annual Report on Form 10-K for the year ended June 30, 2018 filed with the Commission on September 18, 2018)</u>
4.8	<u>Amendment No. 1 to By-Laws of EyePoint Pharmaceuticals, Inc. (incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the Commission on November 6, 2018)</u>
4.9	<u>Form of Specimen Stock Certificate for Common Stock (incorporated herein by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K12G3 filed with the Commission on June 19, 2008)</u>
4.10	<u>Warrant to Purchase Common Stock of pSivida Corp., issued March 28, 2018, to SWK Funding, LLC (incorporated herein by reference to Exhibit 4.1 the Registrant's Current Report on Form 8-K filed with the Commission on March 29, 2018)</u>
4.11	<u>Registration Rights Agreement, dated as of March 28, 2018, by and among pSivida Corp. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. (incorporated herein by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed with the Commission on March 29, 2018)</u>

- 4.12 [Second Registration Rights Agreement, dated as of June 25, 2018, by and among EyePoint Pharmaceuticals, Inc. and EW Healthcare Partners, L.P. and EW Healthcare Partners-A, L.P. and each other person identified on the signature pages thereto \(incorporated herein by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Commission on June 27, 2018\)](#)
- 5.1* [Opinion of Hogan Lovells US LLP](#)
- 10.1 [EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan, as amended \(incorporated herein by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the Commission on June 24, 2021\)](#)
- 10.2 [EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended \(incorporated herein by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the Commission on June 24, 2021\)](#)
- 23.1* [Consent of Deloitte & Touche LLP, independent registered public accounting firm.](#)
- 23.2* [Consent of Hogan Lovells US LLP \(included in Exhibit 5.1\).](#)
- 24.1* [Power of Attorney \(included on signature page of Registration Statement\).](#)

* Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 Watertown, Massachusetts, on August 6, 2021.

EYEPOINT PHARMACEUTICALS, INC.

By: /s/ Nancy S. Lurker

Nancy Lurker
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Nancy Lurker and Ron Honig, Esq., and each of them, as his or her true and lawful attorney-in-fact and agent with full power of substitution, for him or her in any and all capacities, to sign any and all amendments to this Registration Statement on Form S-8 (including post-effective amendments), and to file the same, with all exhibits thereto and other documents in connection therewith, with the Commission, granting unto said attorney-in-fact and agent 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 for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his or her substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Nancy S. Lurker</u> Nancy S. Lurker	President, Chief Executive Officer and Director (Principal Executive Officer)	August 6, 2021
<u>/s/ George Elston</u> George Elston	Chief Financial Officer and Head of Corporate Development (Principal Financial and Accounting Officer)	August 6, 2021
<u>/s/ Göran Ando, M.D.</u> Göran Ando, M.D.	Chairman of the Board of Directors	August 6, 2021
<u>/s/ Ronald W. Eastman</u> Ronald W. Eastman	Director	August 6, 2021
<u>/s/ John B. Landis, Ph.D.</u> John B. Landis, Ph.D.	Director	August 6, 2021
<u>/s/ David Guyer, M.D.</u> David Guyer, M.D.	Director	August 6, 2021
<u>/s/ Wendy DiCicco</u> Wendy DiCicco	Director	August 6, 2021
<u>/s/ Ye Liu</u> Ye Liu	Director	August 6, 2021



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August 6, 2021

Board of Directors
EyePoint Pharmaceuticals, Inc.
480 Pleasant Street
Watertown, MA 02472

Ladies and Gentlemen:

We are acting as counsel to EyePoint Pharmaceuticals, Inc., a Delaware corporation (the “**Company**”), in connection with its registration statement on Form S-8, as amended (the “**Registration Statement**”), filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “**Act**”), relating to the proposed offering of up to 2,750,000 shares of common stock, par value \$0.001 per share (“**Common Stock**”) of the Company (the “**Shares**”), consisting of (a) an additional 2,500,000 shares of Common Stock issuable pursuant to the EyePoint Pharmaceuticals, Inc. 2016 Long-Term Incentive Plan, as amended (the “**2016 Plan**”), and (b) an additional 250,000 shares of Common Stock issuable pursuant to the EyePoint Pharmaceuticals, Inc. 2019 Employee Stock Purchase Plan, as amended (the “**2019 Plan**”). This opinion letter is furnished to you at your request to enable you to fulfill the requirements of Item 601(b)(5) of Regulation S-K, 17 C.F.R. § 229.601(b)(5), in connection with the Registration Statement.

For purposes of this opinion letter, we have examined copies of such agreements, instruments and documents as we have deemed an appropriate basis on which to render the opinions hereinafter expressed. In our examination of the aforesaid documents, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the accuracy and completeness of all documents submitted to us, the authenticity of all original documents, and the conformity to authentic original documents of all documents submitted to us as copies (including pdfs). As to all matters of fact, we have relied on the representations and statements of fact made in the documents so reviewed, and we have not independently established the facts so relied on. This opinion letter is given, and all statements herein are made, in the context of the foregoing.

This opinion letter is based as to matters of law solely on the Delaware General Corporation Law, as amended. We express no opinion herein as to any other statutes, rules or regulations.

Based upon, subject to and limited by the foregoing, we are of the opinion that following (i) effectiveness of the Registration Statement, (ii) issuance of the Shares pursuant to the terms of the 2016 Plan and the 2019 Plan, as applicable, and (iii) receipt by the Company of the consideration for the Shares specified in (x) the resolutions of the Board of Directors, or a duly authorized committee thereof, (y) under the 2016 Plan or the 2019 Plan, as applicable, and (z) the applicable award agreements, the Shares will be validly issued, fully paid, and nonassessable.

Hogan Lovells US LLP is a limited liability partnership registered in the District of Columbia. “Hogan Lovells” is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP, with offices in: Alicante Amsterdam Baltimore Beijing Brussels Caracas Colorado Springs Denver Dubai Dusseldorf Frankfurt Hamburg Hanoi Ho Chi Minh City Hong Kong Houston Johannesburg London Los Angeles Luxembourg Madrid Mexico City Miami Milan Minneapolis Monterrey Moscow Munich New York Northern Virginia Paris Perth Philadelphia Rio de Janeiro Rome San Francisco São Paulo Shanghai Silicon Valley Singapore Sydney Tokyo Ulaanbaatar Warsaw Washington DC Associated offices: Budapest Jakarta Shanghai FTZ Zagreb. Business Service Centers: Johannesburg Louisville. Legal Service Center: Birmingham. For more information see www.hoganlovells.com

This opinion letter has been prepared for use in connection with the Registration Statement. We assume no obligation to advise of any changes in the foregoing subsequent to the effective date of the Registration Statement.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement. In giving this consent, we do not thereby admit that we are an “expert” within the meaning of the Act.

Very truly yours,

/s/ HOGAN LOVELLS US LLP

HOGAN LOVELLS US LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated March 12, 2021 relating to the financial statements of EyePoint Pharmaceuticals, Inc., appearing in the Annual Report on Form 10-K of EyePoint Pharmaceuticals, Inc. for the year ended December 31, 2020.

/s/ Deloitte & Touche LLP

Boston, Massachusetts

August 6, 2021