
**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): **September 20, 2022**

ACURA PHARMACEUTICALS, INC.
(Exact Name of Registrant as specified in its Charter)

New York
(State or other jurisdiction of
incorporation or organization)

1-10113
(Commission File Number)

11-0853640
(I.R.S. Employer
Identification Number)

616 N. North Court, Suite 120
Palatine, Illinois 60067
(Address of principal executive offices) (Zip code)

(847) 705-7709
(Registrant's telephone number, including area code)

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

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, \$0.01 par value per share	ACUR	OTC Market – OTC Expert Market

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 (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 (17CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17CFR 240.13e-4(c))

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 September 20, 2022, Acura Pharmaceuticals, Inc. (“we” “Acura” or the “Company”), received a \$150,000 loan from John Schutte and to date, we have received a total of \$1,675,000. In connection with the \$150,000 loan, we issued an unsecured promissory note, or the Schutte Note, in that principal amount to him. The Schutte Note bears interest at 5.25%, and matures on December 31, 2023, at which time all principal and interest is due. Events of default under the Schutte Note include, among other items, bankruptcy events, failure to pay interest and principal when due and such failure continues for 5 days, and if Acura is generally not, or is unable to, or admits in writing its inability to, pay its debts as they become due. If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration, or otherwise, including upon an event of default, such overdue amount shall bear interest at the rate per annum of 7.5% from the date of such non-payment until such amount is paid in full.

The funding provided by Mr. Schutte will be used for operations over the course of the next several weeks. There can be no assurance we will be successful in receiving additional financing. In the absence of the receipt of additional financing by late October 2022, we will be required to scale back or terminate operations and/or seek protection under applicable bankruptcy laws. This could result in a complete loss of shareholder value in the Company. Even assuming we are successful in securing additional sources of financing to fund continued operations, there can be no assurance that the proceeds of such financing will be sufficient to fund operations until such time, if at all, that we generate sufficient revenue from our products and product candidates to sustain and grow our operation.

The inclusion of a description of the Schutte Note under Item 1.01 of this Current Report on Form 8-K shall not be deemed an acknowledgement that the Schutte Note is a material agreement not made, or deemed not to be made, in the ordinary course of our business.

Mr. Schutte directly owns approximately 14% of our common stock as of January 30, 2022. Mr. Schutte also controls MainPointe Pharmaceuticals, LLC and is an investor in Abuse Deterrent Pharma, LLC (“AD Pharma”). AD Pharma directly owns approximately 66% of our common stock as of January 30, 2022, which does not include their warrant to purchase 10.0 million shares of the Company’s common stock.

Item 2.03 – Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

The contents of Item 1.01 are incorporated herein by reference.

Forward-Looking Statements

Statements in this Current Report constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from any future results, performance, or achievements expressed or implied by such forward-looking statements.

Forward-looking statements may include, but are not limited to:

- our ability to fund or obtain funding for our continuing operations, including the development of our products utilizing our LIMITx and IMPEDE technologies;
- whether we will receive FDA acceptance for an NDA for LTX-03 by the target date;
- whether our licensees will terminate the license prior to commercialization;
- the expected results of clinical studies relating to LTX-03 or any successor product candidate, the date by which such studies will complete and the results will be available and whether any product candidate will ultimately receive FDA approval;
- the ability of LTX-03 single tablets to achieve bioequivalence or to demonstrate efficacy in a clinical study;
- whether our licensing partners will develop any additional products and utilize Acura for such development;
- whether LIMITx will retard the release of opioid active ingredients as dose levels increase;
- whether the extent to which products formulated with the LIMITx technology mitigate respiratory depression risk will be determined sufficient by the FDA;
- our and our licensee’s ability to successfully launch and commercialize our products and technologies;
- our and our licensee’s ability to obtain necessary regulatory approvals and commercialize products utilizing our technologies;
- the market acceptance of, timing of commercial launch and competitive environment for any of our products;
- our ability to develop and enter into additional license agreements for our product candidates using our technologies;
- the ability to avoid infringement of patents, trademarks and other proprietary rights of third parties;

- the ability of our patents to protect our products from generic competition and our ability to protect and enforce our patent rights in any paragraph IV patent infringement litigation;
- the adequacy of the development program for our product candidates, including whether additional clinical studies will be required to support an NDA and FDA approval of our product candidates;
- changes in regulatory requirements;
- adverse safety findings relating to our commercialized products or product candidates in development;
- whether or when we are able to obtain FDA approval of labeling for our product candidates for the proposed indications and whether we will be able to promote the features of our technologies; and
- whether our product candidates will ultimately perform as intended in commercial settings.

In some cases, you can identify forward- looking statements by terms such as "may," "will", "should," "could," "would," "expects," "plans," "anticipates," "believes," "estimates," "indicates", "projects," "predicts," "potential" and similar expressions intended to identify forward-looking statements. These statements reflect our current views with respect to future events and are based on assumptions and subject to risks and uncertainties. Given these uncertainties, you should not place undue reliance on these forward-looking statements. We discuss many of these risks in greater detail in our filings with the Securities and Exchange Commission.

Item 9.01 - Financial Statements and Exhibits

<u>Exhibit Number</u>	<u>Description</u>
99.1	Promissory Note of the Registrant dated September 20, 2022
104	Cover Page Interactive Data File (embedded as Inline XBRL document)

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Current Report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: September 26, 2022

ACURA PHARMACEUTICALS, INC.

By: /s/ Peter A. Clemens
Peter A. Clemens
Senior Vice President & Chief Financial Officer

NEGOTIABLE PROMISSORY NOTE

\$150,000.00

September 20, 2022

FOR VALUE RECEIVED, Acura Pharmaceuticals, Inc., a New York corporation having its principal place of business at 616 N. North Court, Suite 120, Palatine, IL 60067, as maker (the "Maker"), hereby unconditionally promises to pay to the order of John Schutte, having an office at c/o MainPointe Pharmaceuticals, LLC, 2604 River Green Circle, Louisville, KY 40206, or his assigns (the "Noteholder"), the principal sum of ONE HUNDRED FIFTY THOUSAND and 00/100 DOLLARS (\$150,000.00) in lawful money of the United States of America, together with interest thereon at the rate per annum of 5.25%.

Maker agrees to pay the principal sum of this Note and interest on the unpaid principal sum of this Note on December 31, 2023. All interest shall accrue and not be required to be paid until December 31, 2023. All computations of interest shall be made on the basis of 365 or 366 days, as the case may be, and the actual number of days elapsed.

All payments made hereunder shall be applied *first* to the payment of any fees or charges outstanding hereunder, *second* to accrued interest, and *third* to the payment of the principal amount outstanding under the Note.

If any amount payable hereunder is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration, or otherwise, including upon an Event of Default, such overdue amount shall bear interest at the rate per annum of 7.5% from the date of such non-payment until such amount is paid in full.

This Note shall without notice become immediately due and payable at the option of Noteholder if any payment required in this Note is not paid on or prior to the date when due.

Notwithstanding anything to the contrary contained herein, all agreements and communications between Maker and Noteholder are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Noteholder shall never exceed the maximum legal rate of interest permitted by law. If through any contingency or event, Noteholder receives or is deemed to receive interest in excess of such maximum legal rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Maker to Noteholder, or if there is no such indebtedness, shall immediately be returned to Maker.

The occurrence of any of the following shall constitute an "Event of Default" hereunder:

- (a) The Maker fails to pay any principal or interest or any other amount payable hereunder when due and such failure continues for 5 days;
 - (b) The Maker fails to pay when due any of its indebtedness for borrowed money (other than indebtedness under this Note) in a principal amount exceeding \$100,000, or any interest or premium thereon, when due and such failure continues after the applicable grace period, if any, specified in the agreement or instrument relating to such indebtedness;
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- (c) The Maker commences any voluntary case, proceeding, or other action (i) under any existing or future law relating to bankruptcy, insolvency, reorganization, or other relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition, or other relief with respect to it or its debts, or (ii) seeking appointment of a receiver, trustee, custodian, conservator, or other similar official for it or for all or any substantial part of its assets, or the Maker makes a general assignment for the benefit of its creditors;
 - (d) There is commenced against the Maker any involuntary case, proceeding, or other action of a nature referred to in (c) above which (i) results in the entry of an order for relief or any such adjudication or appointment or (ii) remains undismissed, undischarged, or unbonded for a period of 30 days;
 - (e) There is commenced against the Maker any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which has not been vacated, discharged, or stayed or bonded pending appeal within 30 days from the entry thereof;
 - (f) The Maker takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in (c), (d) or (e) above;
 - (g) The Maker is generally not, or is unable to, or admits in writing its inability to, pay its debts as they become due; or
 - (h) A final non-appealable judgment or decree for money in excess of \$100,000 (to the extent not paid or covered by insurance) is entered against the Maker and such judgment or decree has not been vacated, discharged, or stayed or bonded pending appeal within 30 days from the entry thereof.
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Upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, the Noteholder may at its option, by written notice to the Maker (a) declare the entire principal amount of this Note, together with all accrued interest thereon and all other amounts payable under this Note, immediately due and payable and/or (b) exercise any or all of its rights, powers, or remedies under applicable law; *provided, however* that, if an Event of Default described in any of (c) through (g) above shall occur, the principal of and accrued interest on this Note shall become immediately due and payable without any notice, declaration, or other act on the part of the Noteholder.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Maker or Noteholder, but only by an agreement in writing signed by both Noteholder and Maker.

This Note shall be governed by the laws of the State of New York.

THE MAKER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY RELATING TO THIS NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY.

This Note may be assigned, transferred, or negotiated by the Noteholder to any individual or entity, at any time, without notice to or the consent of the Maker. Maker shall not have the right to assign, delegate or transfer its rights or obligations under this Note without the prior written consent of Noteholder, and any attempted assignment, delegation or transfer without such consent shall be null and void.

The Maker hereby waives presentment, demand for payment, protest, notice of dishonor, notice of protest or nonpayment, notice of acceleration of maturity, and diligence in connection with the enforcement of this Note or the taking of any action to collect sums owing hereunder.

The Maker shall reimburse the Noteholder on demand for all reasonable out-of-pocket costs, expenses, and fees (including reasonable expenses and fees of its counsel) incurred by the Noteholder in connection with the transactions contemplated hereby, including the negotiation, documentation, and execution of this Note and the enforcement of the Noteholder's rights hereunder.

No failure to exercise and no delay in exercising, on the part of the Noteholder, of any right, remedy, power, or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

If any term or provision of this Note is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Note or invalidate or render unenforceable such term or provision in any other jurisdiction.

[SIGNATURE APPEARS ON NEXT PAGE]

IN WITNESS WHEREOF, Maker has duly executed this Note as of the day and year first above written.

MAKER:

ACURA PHARMACEUTICALS, INC.

By: /s/ Peter A. Clemens

Peter A. Clemens

Its: Senior Vice President & Chief Financial Officer
