

**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): July 23, 2019

OBALON THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

001-37897

**(Commission
File Number)**

26-1828101

**(IRS Employer
Identification No.)**

**5421 Avenida Encinas, Suite F
Carlsbad, California**

(Address of principal executive offices)

92008

(Zip Code)

(760) 795-6558

(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

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 (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))
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Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.001 per share	OBLN	The NASDAQ Stock Market LLC (NASDAQ Global Market)

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 ☒ x

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. ☒ x

Item 3.03 Material Modification of Rights of Security Holders.

On July 24, 2019, Obalon Therapeutics, Inc. (the “Company”) effected a 1-for-10 reverse stock split of its common stock (the “Reverse Stock Split”). As further described below, on July 23, 2019, the stockholders of the Company approved the proposal to authorize the Company’s Board of Directors, in its discretion but in no event later than the date of the 2020 annual meeting of stockholders, to amend the Company’s Restated Certificate of Incorporation, as amended, to effect a reverse stock split of the Company’s common stock, at a ratio in the range of 1-for-5 to 1-for-20, such ratio to be determined by the Board of Directors and included in a public announcement. On July 23, 2019, the Company’s Board of Directors approved the Reverse Stock Split at a ratio of 1-for-10. On July 24, 2019, the Company filed a Certificate of Second Amendment (the “Certificate of Second Amendment”) with the Secretary of State of the State of Delaware to amend the Company’s Restated Certificate of Incorporation, as amended, and effect the Reverse Stock Split.

As a result of the Reverse Stock Split, every ten (10) shares of the Company’s common stock issued or outstanding or held by the Company as treasury stock will be automatically reclassified into one new share of common stock without any action on the part of the holders. Proportionate adjustments will be made to the conversion and exercise prices of the Company’s outstanding equity awards and options, and to the number of shares issued and issuable under the Company’s equity incentive plans. The common stock issued pursuant to the Reverse Stock Split will remain fully paid and non-assessable. The Reverse Stock Split will not affect the number of authorized shares of common stock or the par value of the common stock. Any fractional shares of common stock resulting from the Reverse Stock Split will be rounded up to the nearest whole share and no stockholders will receive cash in lieu of fractional shares.

The Reverse Stock Split is primarily intended to bring the Company into compliance with the minimum bid price requirements for maintaining its listing on the Nasdaq Global Market. Trading of the Company’s common stock on the Nasdaq Global Market will continue on a split-adjusted basis when the markets open on July 25, 2019, under the existing trading symbol “OBLN.” The new CUSIP number following the Reverse Stock Split will be 67424L209.

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

On July 24, 2019, the Company filed the Certificate of Second Amendment with the Secretary of State of the State of Delaware to effect the Reverse Stock Split. The information set forth in Item 3.01 of this Current Report is incorporated by reference herein. The foregoing description of the Certificate of Second Amendment is qualified in its entirety by reference to the Certificate of Second Amendment, which is filed as Exhibit 3.1 to this Current Report and is incorporated herein by reference.

Item 5.07 Submission of Matters to a Vote of Security Holders.

The Company held its 2019 annual meeting of stockholders (the “Annual Meeting”) on July 23, 2019. At the Annual Meeting, the Company’s stockholders voted on three proposals, as described below. Each of the proposals was described in detail in the Company’s definitive proxy statement on Schedule 14A filed with the U.S. Securities and Exchange Commission on June 13, 2019. The vote totals noted below are final voting results from the Annual Meeting.

Proposal 1

The Company’s stockholders elected the following two Class III Directors for a term of office expiring at the Company’s 2022 annual meeting of stockholders and until their successors are duly elected and qualified or until such director’s earlier death, resignation or removal.

<u>Name</u>	<u>Votes For</u>	<u>Votes Withheld</u>	<u>Broker Non-Votes</u>
Kim Kamdar, Ph.D.	14,116,621	219,498	11,205,384
Andrew Rasdal	13,945,656	390,463	11,205,384

Proposal 2

The Company's stockholders approved the proposal to authorize the Company's Board of Directors, in its discretion but in no event later than the date of the 2020 annual meeting of stockholders, to amend the Company's Restated Certificate of Incorporation, as amended, to effect a reverse stock split of the Company's common stock, at a ratio in the range of 1-for-5 to 1-for-20, such ratio to be determined by the Board of Directors and included in a public announcement.

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
21,527,006	3,660,377	220,410	133,710

Proposal 3

The Company's stockholders ratified the appointment of KPMG LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2019.

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
24,943,060	290,510	307,933	0

Item 8.01 Other Events.

On July 24, 2019, the Company issued a press release announcing the Reverse Stock Split. A copy of the press release is filed as Exhibit 99.1 to this Current Report and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

	Description
3.1	Certificate of Second Amendment to the Restated Certificate of Incorporation
99.1	Press Release dated July 24, 2019

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

OBALON THERAPEUTICS, INC.

Date: July 24, 2019

By: /s/ William Plovanic

William Plovanic

President and Chief Financial Officer

**CERTIFICATE OF SECOND AMENDMENT
TO THE
RESTATED CERTIFICATE OF INCORPORATION
OF
OBALON THERAPEUTICS, INC.**

Obalon Therapeutics, Inc. (the “Corporation”), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the “DGCL”), does hereby certify that:

A. The name of this corporation is Obalon Therapeutics, Inc. and the date on which the Restated Certificate of Incorporation of this corporation was originally filed with the Secretary of State of the State of Delaware was October 12, 2016 (the “Restated Certificate of Incorporation”).

B. The date on which the first amendment to the Restated Certificate of Incorporation was originally filed with the Secretary of State of the State of Delaware was June 14, 2018.

C. The Board of Directors of the Corporation has duly adopted resolutions proposing and declaring advisable that the Restated Certificate of Incorporation be further amended as set forth herein and calling for the consideration and approval thereof at a meeting of the stockholders of the Corporation.

D. This certificate of second amendment (the “Certificate of Second Amendment”) to the Restated Certificate of Incorporation herein certified was duly adopted in accordance with the applicable provisions of Section 242 of the DGCL.

E. The Restated Certificate of Incorporation is hereby further amended to add the following as paragraph 3 of ARTICLE IV in the form below:

“3. Reverse Stock Split.

Upon the effectiveness of the filing of this Certificate of Second Amendment (the “*Effective Time*”), each share of the Corporation’s common stock, \$0.001 par value per share (the “*Old Common Stock*”), either issued or outstanding or held by the Corporation as treasury stock, immediately prior to the Effective Time, will be automatically reclassified (without any further act) into a smaller number of shares such that each five (5) to twenty (20) shares of Old Common Stock issued and outstanding or held by the Company as treasury stock immediately prior to the Effective Time is reclassified into one share of Common Stock, \$0.001 par value per share, of the Corporation (the “*New Common Stock*”), the exact ratio within such range to be determined by the board of directors of the Corporation prior to the Effective Time and publicly announced by the Corporation (the “Reverse Stock Split”). The Corporation shall not issue fractional shares of New Common Stock. The reverse stock split shall not increase or decrease the amount of stated capital or paid-in surplus of the Corporation, provided that any fractional share that would otherwise be issuable as a result of the reverse stock split shall be rounded up to the nearest whole share of New Common Stock. As soon as practicable following the Effective Time, the Corporation will cause the Corporation’s exchange agent and registrar to issue new book entries representing the number of shares of the New Common Stock into which such shares of Old Common Stock shall have been reclassified.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Obalon Therapeutics, Inc. has caused this Certificate of Second Amendment to be executed by its duly authorized officer on this 24th day of July, 2019.

OBALON THERAPEUTICS, INC.

By: /s/ William Plovanic

Name: William Plovanic

Title: President and Chief Financial Officer

Obalon Announces Reverse Stock Split Effective Today

OBLN common stock expected to begin trading on a split-adjusted basis on July 25, 2019

SAN DIEGO, CA, July 24, 2019 (GLOBE NEWSWIRE) -- Obalon Therapeutics, Inc. (NASDAQ: OBLN), a vertically integrated medical technology company with the first and only FDA-approved swallowable, gas-filled intragastric balloon system for the treatment of obesity, announces that its Board of Directors has declared a 1-for-10 reverse stock split of the company's common stock. The reverse stock split will become effective today, July 24, 2019 (the "Effective Date"). The company's common stock is expected to begin trading on a split-adjusted basis when the markets open on July 25, 2019 under the existing trading symbol "OBLN."

The reverse stock split is primarily intended to bring the company into compliance with the minimum bid price requirements for maintaining its listing on the Nasdaq Global Market. The new CUSIP number following the reverse split will be 67424L209.

As a result of the reverse stock split, every 10 shares of the company's common stock issued and outstanding or held by the company as treasury stock will be automatically reclassified into one new share of common stock. Proportionate adjustments will be made to the conversion and exercise prices of the Company's outstanding equity awards and options, and to the number of shares issued and issuable under the company's equity incentive plans. The common stock issued pursuant to the reverse stock split will remain fully paid and non-assessable. The reverse stock split will not affect the number of authorized shares of common stock or the par value of the common stock. The reverse stock split was approved by the company's stockholders at the company's annual stockholder meeting held on July 23, 2019 at a ratio in the range of 1-for-5 and 1-for-20, such ratio to be determined by the company's Board of Directors in its discretion and included in a public announcement. On July 23, 2019, the company's Board of Directors approved the reverse stock split at the ratio of 1-for-10.

The reverse stock split will affect all stockholders uniformly and will not alter any stockholder's percentage interest in the company, except to the extent that the reverse stock split would result in a stockholder owning a fractional share. Any fractional shares of common stock resulting from the reverse stock split will be rounded up to the nearest whole share and no stockholders will receive cash in lieu of fractional shares. Proportionate voting rights and other rights and preferences of common stock holders will not be affected by the reverse stock split. The company's transfer agent, American Stock Transfer & Trust Company, will act as its exchange agent for the reverse stock split. American Stock Transfer & Trust Company will provide stockholders of record holding certificates representing pre-split shares of the company's common stock as of the effective date, if any, a letter of transmittal providing instructions for the exchange of shares. Registered stockholders holding pre-split shares of the company's common stock electronically in book-entry form are not required to take any action to receive post-split shares. Stockholders owning shares via a broker, bank, trust or other nominee will have their positions automatically adjusted to reflect the reverse stock split, subject to such broker's particular processes, and will not be required to take any action in connection with the reverse stock split.

Additional information about the reverse stock split and stockholder approval can be found in the Company's definitive proxy statement filed with the Securities and Exchange Commission (the "SEC") on June 13, 2019, which is available free of charge at the SEC's website, www.sec.gov, and at the company's website, www.obalon.com.

About Obalon Therapeutics, Inc.

Obalon Therapeutics, Inc. (NASDAQ:OBLN) is a San Diego-based company focused on developing and commercializing novel technologies for weight loss. For more information, please visit www.obalon.com.

Forward-Looking Statements

To the extent that statements contained in this press release are not descriptions of historical facts regarding Obalon Therapeutics, they are forward-looking statements reflecting the current beliefs and expectations of management made pursuant to the safe

harbor of the Private Securities Reform Act of 1995. Such forward-looking statements involve substantial risks and uncertainties that could cause Obalon Therapeutics' future results, performance or achievements to differ significantly from those expressed or implied by the forward-looking statements. Obalon Therapeutics undertakes no obligation to update or revise any forward-looking statements. For a description of the risks and uncertainties that could cause actual results to differ from those expressed in these forward-looking statements, as well as risks relating to Obalon Therapeutics' business in general, please refer to Obalon Therapeutics' annual report on Form 10-K filed with the Securities and Exchange Commission on February 22, 2019, Form 10-Q filed with the Securities and Exchange Commission on May 10, 2019, and its future periodic reports filed with the Securities and Exchange Commission.

For Obalon Therapeutics, Inc.

Investor Contact:

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