

MANKIND CORP

FORM 8-K (Current report filing)

Filed 07/17/17 for the Period Ending 07/12/17

Address	25134 RYE CANYON LOOP SUITE 300 VALENCIA, CA 91355
Telephone	6617755300
CIK	0000899460
Symbol	MNKD
SIC Code	2834 - Pharmaceutical Preparations
Industry	Biotechnology & Medical Research
Sector	Healthcare
Fiscal Year	12/31

**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 12, 2017

MannKind Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

000-50865
(Commission
File Number)

13-3607736
(IRS Employer
Identification No.)

25134 Rye Canyon Loop, Suite 300
Valencia, California
(Address of principal executive offices)

91355
(Zip Code)

Registrant's telephone number, including area code: (661) 775-5300

N/A
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. of Form 8-K):

- 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))

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 5.02 **Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On July 12, 2017, we appointed Steven Binder as our Chief Financial Officer and our principal accounting officer, replacing Rosabel Alinaya in such capacities, effective upon his commencement of employment with us on July 17, 2017. Ms. Alinaya will serve as our Senior Vice President, Investor Relations.

Before joining MannKind Corporation, Mr. Binder, age 54, served as Vice President and Chief Financial Officer of the International Group of Stryker Corporation, a medical device and equipment manufacturing company based out of Singapore, since 2013. Prior to Stryker Corporation, Mr. Binder served in a series of senior leadership roles at Bristol-Myers Squibb Company (“BMS”). His last four positions at BMS were Vice President, Finance roles over the following geographic operating units: United States from 2012 to 2013, Europe from 2008 to 2011, Asia Pacific from 2005 to 2007 and Japan from 2003 to 2005. Prior to that, Mr. Binder served in three senior leadership roles for Oncology Therapeutics Network (“OTN”), a U.S.-based independent subsidiary of BMS: Vice President, Strategic Development from 2001 to 2003, Vice President, Customer Operations from 2000 to 2001 and Chief Financial Officer from 1997 to 2000. Before OTN, Mr. Binder completed three finance and accounting roles for BMS Worldwide Medicines Group after joining BMS in 1992. Before BMS, he worked for Deloitte & Touche LLP in a series of auditing roles over an eight year period beginning in 1984. Mr. Binder received a B.S. degree in Accounting and Business Administration from Muhlenberg College and is a Certified Public Accountant.

In connection with his appointment as our Chief Financial Officer, we entered into an offer letter agreement with Mr. Binder pursuant to which we agreed to provide Mr. Binder with the following compensation: (i) annual base salary of \$400,000; (ii) a one-time sign-on bonus of \$50,000, subject to repayment under certain conditions; (iii) eligibility to receive annual discretionary bonuses, with an annual target performance-bonus opportunity of 50% his base salary; and (iv) subject to the approval by our board of directors, the grant of a stock option to purchase 180,100 shares of our common stock under our 2013 Equity Incentive Plan (the “Plan”), with such shares vesting in four equal installments upon the achievement of specified quarterly product sales. In accordance with the Plan, the stock option shall have an exercise price equal to the closing price of our common stock on the date of grant. The foregoing stock option will be evidenced by a Stock Option Grant Notice and Option Agreement (collectively, the “Grant Documents”), which, together with the Plan, will set forth the terms and conditions of the stock option. The foregoing description of the stock option does not purport to be complete and is qualified in its entirety by reference to the Plan, filed as Exhibit 10.1 to our Quarterly Report on Form 10-Q (File No. 000-50865), filed with the Securities and Exchange Commission (“SEC”) on August 9, 2016, and the forms of Grant Documents under the Plan, filed as Exhibits 99.2 and 99.3 to our Registration Statement on Form S-8 (File No. 333-188790), filed with the SEC on May 23, 2013.

Mr. Binder will also be entitled to enter into our standard form of indemnity agreement, a copy of which is attached as Exhibit 10.1 to our Registration Statement on Form S-1 (File No. 333-115020), filed with the SEC on April 30, 2004, and our standard form of change of control agreement, a copy of which is attached as Exhibit 99.1 to our Current Report on Form 8-K (File No. 000-50865), filed with the SEC on April 7, 2017.

The foregoing description of the offer letter agreement with Mr. Binder does not purport to be complete and is qualified in its entirety by reference to the agreement, a copy of which is attached as Exhibit 99.1 to this report.

Item 9.01 **Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
99.1	Offer Letter Agreement, dated July 12, 2017, by and between MannKind Corporation and Steven Binder.

SIGNATURE

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

MANKIND CORPORATION

Dated: July 17, 2017

By: /s/ David Thomson

Name: David Thomson, Ph.D., J.D.

Title: Corporate Vice President, General Counsel and Secretary

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
99.1	Offer Letter Agreement, dated July 12, 2017, by and between MannKind Corporation and Steven Binder.



One Casper Street
Danbury, CT 06810
Main: 203-798-8000
Fax: 203-798-7740
www.mannkindcorp.com

July 12, 2017

Mr. Steven B. Binder

Dear Steve,

Congratulations! The MannKind team has been very impressed with your background and credentials, and we are genuinely pleased to offer you full-time employment with MannKind Corporation, in the exempt position Chief Financial Officer located in California. In this position you will initially report directly to Michael Castagna, Chief Executive Officer.

We will target your employment to commence on July 17, 2017. Please be advised that continued employment is contingent upon satisfactory reference and background checks and receipt of results of a satisfactory drug screening test. You will receive an email with information regarding the test, contact and location information for the laboratory as well as the hours of operation. This screening test must be completed within two weeks from the date of this letter.

You will be paid on a bi-weekly basis, on regular payroll schedule, in the amount of \$15,384.62, equating to an annualized amount of \$400,000.12. You will be eligible to participate in the MannKind Discretionary Bonus Plan, with a target bonus opportunity of 50% of annual earnings.

Additionally, you will receive a one-time sign-on bonus in the gross amount of \$50,000.00, less appropriate withholdings and other payroll deductions, payable as a lump sum on the first pay period at the end of the first ninety (90) days of your employment. By accepting this offer, you agree that, in the event that you voluntarily leave the Company, or if you are terminated by the Company for "cause", within the twelve (12) months following receipt of payment, you will repay the full amount of the payment, net any with-holdings within thirty (30) days after the last day of your employment. By accepting this offer, you further agree that the Company may deduct this amount from any other amounts The Company owes you should you be obligated to repay this amount.

You will be eligible to participate in the 2017 MannKind Equity Program, under which Performance-based Stock Options will be awarded to you at a future date, as approved by the Board of Directors. At the next quarterly Board meeting after your hire date, we will recommend that you be granted an equity award of 180,100 units of Performance-based Stock Options which is comparable to grants made for other individuals in similar level positions throughout the company. This is not a guarantee for a specific number of stock units, but is only intended to provide you with an understanding of grant guidelines for your position. If your start date is less than two weeks prior to the next quarterly Board meeting, the

recommendation will be submitted in the following quarter. Grants will begin vesting based on your hire date and upon the organization reaching specific sales milestones. You will also be eligible for an annual equity grant moving forward.

Included as part of this offer is information about the main points of the Company's relocation assistance program, which MannKind will provide to you to relocate to the "local area." Upon acceptance of this offer, a representative of NEI will contact you to initiate your relocation benefits.

MannKind will provide relocation assistance to you in good faith, however, should you leave the Company before one year for any reason, except layoff, you will be required to repay the Company all funds paid, either to you or on your behalf, for relocation purposes.

We have a substantial list of fringe benefits, including the following: 20 days PTO annually, which accrues on a bi-weekly basis; short term and long term disability insurance; company-paid life insurance; a 401(k) tax deferred savings program; flexible spending accounts; health, vision and dental insurance, Executive Medical Reimbursement plan and paid holidays which includes a full week in July and December for the holiday break. The holidays and other time off benefits will be prorated based on your date of hire. All benefits, policies and rules are subject to change from time to time at the Company's discretion. All benefits outlined in this offer letter are contingent on your continuing employment with MannKind Corporation in a benefit eligible status.

Shortly after we are in receipt of your acceptance, you will receive a welcome email from our onboarding manager, with a link to your personalized onboarding portal. Through this portal you will have access to most of the required MannKind policies and agreements that will require your signature such as, the Employee Proprietary Information and Inventions Agreement, an Arbitration Agreement, a Policy Against Insider Trading, Code of Business Conduct and Ethics, and an Employee Acknowledgement Form, required after reading the MannKind Employee Sourcebook. Of course, the company may require additional policies or agreements to be signed and acknowledged in the future.

Employment at MannKind is at will, which means that either you or MannKind can end the employment relationship at any time, and for any reason or for no reason, with or without cause or notice. The employment terms in this letter supersede any other agreements or promises made to you by anyone, whether oral or written, and cannot be modified or amended except in writing by an officer of the company. As required by law, this offer is subject to satisfactory proof of your right to work in the United States. This at will employment relationship cannot be changed except in writing as approved by the Board of Directors of MannKind.

We appreciate the energy and enthusiasm you demonstrated during our interview and selection process and we look forward to a favorable response to our offer. We have many exciting challenges ahead and believe you can make a significant contribution to MannKind.

At your earliest convenience, please sign and date this letter and return to me to indicate your acceptance of this written offer of employment.

If you should have any questions, please don't hesitate to contact me.

Sincerely,

/s/ Diana Champagne

Diana Champagne

Director, Total Rewards and HR Ops

I have carefully read and understand all of the terms of the above letter and freely and voluntarily accept and agree to all of its terms. I represent that, in agreeing to this offer letter, I am not relying on any representations or promises of any kind other than set forth in this letter.

/s/ Steven B. Binder

Steven B. Binder

July 12, 2017

Date Signed

July 17, 2017

Confirmed Start Date