

# EPOCRATES INC

## FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 05/07/12

Address	1100 PARK PLACE, SUITE 300 SAN MATEO, CA 94403
Telephone	650-227-1700
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Industry	Computer Services
Sector	Technology
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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM S-8**

**REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**EPOCRATES, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**94-3326769**

(I.R.S. Employer Identification No.)

**1100 Park Place, Suite 300  
San Mateo, California 94403  
(650) 227-1700**

(Address of principal executive offices) (Zip code)

**2010 Equity Incentive Plan, as amended**  
(Full title of the plan)

**ANDREW HURD  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
EPOCRATES, INC.**

**1100 PARK PLACE, SUITE 300  
SAN MATEO, CALIFORNIA 94403  
(650) 227-1700**

(Name and address of agent for service) (Telephone number, including area code, of agent for service)

**Copies to:**

**Matthew B. Hemington**  
Cooley LLP  
3175 Hanover Street  
Palo Alto, California 94304  
(650) 843-5000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Securities to be Registered	Amount to be Registered(1)	Proposed Maximum Offering Price per Share(3)	Proposed Maximum Aggregate Offering Price (3)	Amount of Registration Fee
Common Stock, par value \$0.001 per share	974,786 shares(2) \$	7.28 \$	7,096,442.08 \$	813.25

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of Registrant’s Common Stock that become issuable under the Epocrates, Inc. 2010 Equity Incentive Plan, as amended (the “Plan”), set forth herein by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of Registrant’s Common Stock.
  - (2) Represents an increase in the number of shares of Common Stock reserved for issuance under the Plan pursuant to an evergreen provision contained therein. In accordance with such evergreen provision, the number of shares reserved for issuance under the Plan will automatically increase on January 1<sup>st</sup> of each year, starting on January 1, 2012 and continuing through January 1, 2014, by the lesser of (a) four percent (4%) of the total number of shares of the Registrant’s Common Stock outstanding on the last day of the preceding calendar year, (b) 1,965,000 shares of the Registrant’s Common Stock (reflecting the 1-for-0.786 reverse split of the Registrant’s Common Stock effective upon the closing of the Registrant’s IPO) or (c) a number determined by the Registrant’s Board of Directors that is less than (a) or (b).
  - (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) and Rule 457(c) promulgated under the Securities Act. The offering price per share and the aggregate offering price are based upon the average of the high and low prices of the Registrant’s Common Stock as reported on the NASDAQ Global Market on May 3, 2012. Pursuant to Rule 457(h)(2) of the Securities Act, no separate registration fee is required with respect to the plan interests.
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## EXPLANATORY NOTE

This Registration Statement on Form S-8 (this "Registration Statement") is being filed for the purpose of registering an additional 974,786 shares (the "Shares") of the Registrant's Common Stock to be issued pursuant to the Registrant's 2010 Equity Incentive Plan, as amended, pursuant to an evergreen provision contained therein.

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**PART I**

**Information Required in the Section 10(a) Prospectus**

As permitted by the rules of the Securities and Exchange Commission, referred to herein as the Commission, under the Securities Act of 1933, as amended, this Registration Statement omits the information specified in Part I of Form S-8.

## PART II

### Information Required in the Registration Statement

The Shares are securities of the same class and relate to the same employee benefit plan, the 2010 Equity Incentive Plan, as amended, as those registered pursuant to the Registrant's registration statement on Form S-8, previously filed with the Commission on March 17, 2011. The contents of the earlier registration on Form S-8 (File No. 333-172906) are hereby incorporated herein by reference and made a part hereof.

#### ITEM 8. EXHIBITS

<b>Exhibit Number</b>	<b>Description</b>
3.1(1)	Amended and Restated Certificate of Incorporation dated February 7, 2011.
3.2(2)	Amended and Restated Bylaws.
4.1	Reference is made to Exhibits 3.1 and 3.2.
5.1	Opinion of Cooley LLP.
23.1	Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.
23.2	Consent of Cooley LLP (included in Exhibit 5.1).
24.1	Power of Attorney (included on the signature page of this Form S-8).
99.1(3)	Epocrates, Inc. 2010 Equity Incentive Plan, as amended.

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- (1) Filed as Exhibit 3.1 to our Annual Report on Form 10-K for the fiscal year ended December 31, 2010 (SEC File No. 001-35062), and incorporated herein by reference.
  - (2) Filed as Exhibit 3.4 to our Registration Statement on Form S-1, as amended (SEC File No. 333-168176), filed with the Securities and Exchange Commission on July 16, 2010, and incorporated herein by reference.
  - (3) Filed as Exhibit 10.10 to our Registration Statement on Form S-1, as amended (SEC File No. 333-168176), filed with the SEC on September 27, 2010, and incorporated herein by reference.

## 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 the City of Ewing, State of New Jersey, on May 7, 2012.

### EPOCRATES, INC.

By: /s/ Andrew Hurd

Andrew Hurd

*President and Chief Executive Officer*

## POWER OF ATTORNEY

**KNOW ALL PERSONS BY THESE PRESENTS**, that each person whose signature appears below constitutes and appoints Andrew Hurd and Patrick D. Spangler, and each or any one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, 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 to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or 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 dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Andrew Hurd</u> Andrew Hurd	President and Chief Executive Officer ( <i>Principal Executive Officer</i> )	May 7, 2012
<u>/s/ Patrick D. Spangler</u> Patrick D. Spangler	Chief Financial Officer ( <i>Principal Financial and Accounting Officer</i> )	May 7, 2012
<u>/s/ Patrick S. Jones</u> Patrick S. Jones	Chairman of the Board	May 7, 2012
<u>/s/ Peter C. Brandt</u> Peter C. Brandt	Vice-Chairman of the Board	May 7, 2012
<u>/s/ Philippe O. Chambon</u> Philippe O. Chambon, M.D., Ph.D.	Director	May 7, 2012
<u>/s/ Gary G. Greenfield</u> Gary G. Greenfield	Director	May 7, 2012
<u>/s/ Thomas L. Harrison</u> Thomas L. Harrison	Director	May 7, 2012
<u>/s/ Erick Tseng</u> Erick Tseng	Director	May 7, 2012
<u>/s/ Mark A. Wan</u> Mark A. Wan	Director	May 7, 2012

Matthew B. Hemington  
(650) 843-5062  
hemingtonmb@cooley.com

May 7, 2012

Epocrates, Inc.  
1100 Park Place, Suite 300  
San Mateo, California 94403

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the filing by Epocrates, Inc., a Delaware corporation (the “*Company*”), of a Registration Statement on Form S-8 (the “*Registration Statement*”) with the Securities and Exchange Commission covering the offering of up to an aggregate of 974,786 shares of the Company’s Common Stock (the “*2010 EIP Shares*”), par value \$0.001 per share, issuable pursuant to the Company’s 2010 Equity Incentive Plan (the “*2010 EIP*”).

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and related prospectuses, (b) the 2010 EIP, (c) the Company’s Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws, each as currently in effect, and (d) such other documents, records, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness and authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies thereof, and the due execution and delivery of all documents where due execution and delivery are a prerequisite to the effectiveness thereof.

As to certain factual matters, we have relied upon a certificate of officers of the Company and have not sought to independently verify such matters. Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the 2010 EIP Shares, when sold and issued in accordance with the 2010 EIP, the Registration Statement and related prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,

Cooley LLP

By: /s/ Matthew B. Hemington  
Matthew B. Hemington

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CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of Epocrates, Inc. of our report dated March 19, 2012 relating to the financial statements and financial statement schedule, which appears in Epocrates, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2011.

/s/ PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP

San Jose, California

May 7, 2012

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