

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

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

HARROW HEALTH, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

102 Woodmont Blvd., Suite 610
Nashville, Tennessee 37205
(Address of Principal Executive Offices)

45-0567010
(I.R.S. Employer
Identification No.)

37205
(Zip Code)

Harrow Health, Inc. 2017 Incentive Stock and Awards Plan
(Full title of the plan)

Mark L. Baum
Chief Executive Officer
Harrow Health, Inc.
102 Woodmont Blvd., Suite 610
Nashville, Tennessee 37205
Telephone: (615) 733-4730
(Name, address and telephone number, including area code, of agent for service)

Copy to:
James H. Nixon III
Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219
Telephone: (615) 244-6380

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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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 ⁽³⁾	Proposed maximum aggregate offering price ⁽³⁾	Amount of registration fee
Common stock, par value \$0.001 per share	4,000,000 ⁽²⁾	\$ 8.81	\$ 35,240,000	\$ 3,844.69

(1) Pursuant to Rule 416 under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of common stock that become issuable under the Harrow Health, Inc. 2017 Incentive Stock and Awards Plan (the “Plan”), by reason of any

stock dividend, stock split, recapitalization, merger, consolidation or reorganization of or by us that results in an increase in the number of shares of our outstanding common stock.

- (2) The Plan authorizes the issuance of a maximum of 6,000,000 shares of common stock, of which 2,000,000 shares have been registered pursuant to a previously filed registration statement on Form S-8 (Reg. No. 333-220186). An additional 4,000,000 shares of common stock are being registered herewith and, in accordance with General Instruction E of Form S-8, the fee is being paid only with respect to these additional shares.
 - (3) The proposed maximum offering price is calculated pursuant to Rule 457(c) and Rule 457(h) under the Securities Act on the basis of the average of the \$9.51 (high) and \$8.10 (low) sale prices for the shares of common stock reported on The NASDAQ Global Market on June 22, 2021, which is within five business days prior to filing this Registration Statement and solely for the purpose of calculating the registration fee.
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EXPLANATORY NOTE

This registration statement is being filed pursuant to General Instruction E to Form S-8 and relates to the registration of an additional 4,000,000 shares of common stock of Harrow Health, Inc. f/k/a Imprimis Pharmaceuticals, Inc. (the "Registrant") issuable pursuant to the Harrow Health, Inc. 2017 Incentive Stock and Awards Plan. The contents of the Registrant's registration statement on Form S-8 previously filed with the Securities and Exchange Commission (the "SEC") on August 25, 2017 (Reg. No. 333-220186), including all exhibits filed therewith or incorporated therein by reference, are incorporated herein by reference and made a part hereof, except as the same may be modified by the information set forth herein.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The SEC allows us to “incorporate by reference” information into this registration statement, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The following documents, which have been filed by the Registrant with the SEC, are incorporated in this registration statement by reference:

(a) The Registrant’s Annual Report on Form 10-K for the year ended December 31, 2020;

(b) The Registrant’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2021;

(c) The Registrant’s Current Reports on Form 8-K filed with the SEC on January 21, 2021, January 27, 2021, February 4, 2021, February 9, 2021, April 5, 2021, April 8, 2021, April 12, 2021, April 20, 2021, May 5, 2021, June 7, 2021 and June 17, 2021 (other than information furnished pursuant to Item 2.02 or Item 7.01 of the Current Report on Form 8-K, unless expressly stated otherwise therein); and

(d) The description of the Registrant’s common stock contained in the Registrant’s Registration Statement on Form 8-A, filed with the SEC pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), on February 7, 2013 (Reg. No. 001-35814), including any amendments or reports filed for the purpose of updating such descriptions.

All reports and other documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this registration statement, 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 a part hereof from the date of filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this registration statement 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 statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Item 5. Interests of Named Experts and Counsel.

The validity of the shares of common stock offered hereby will be passed upon by Waller Lansden Dortch & Davis, LLP, Nashville, Tennessee.

Item 6. Indemnification of Directors and Officers.

The Registrant is incorporated under the laws of the State of Delaware. Section 102(b)(7) of the Delaware General Corporation Law (the “DGCL”) allows a corporation to provide in its certificate of incorporation that a director of the corporation will not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except where the director breached the duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit. The Registrant’s amended and restated certificate of incorporation provides for this limitation of liability.

Section 145 of the DGCL (“Section 145”) provides that a Delaware corporation may indemnify any person who was, is or is threatened to be made party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person is or was an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the corporation’s best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was illegal. A Delaware corporation may indemnify any persons who are, were or are threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation by reason of the fact that such person is or was a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys’ fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, provided such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the corporation’s best interests, provided that no indemnification is permitted without judicial approval if the officer, director, employee or agent is adjudged to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him against the expenses which such officer or director has actually and reasonably incurred.

Section 145 further authorizes a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his or her status as such, whether or not the corporation would otherwise have the power to indemnify him under Section 145.

The Registrant’s amended and restated bylaws provide that the Registrant must indemnify and hold harmless its directors, officers, employees and agents to the fullest extent authorized by the DGCL and must also pay expenses incurred in defending any such proceeding in advance of its final disposition; provided, that if and to the extent required by the DGCL, the advancement of expenses shall only be made upon delivery of an undertaking, by or on behalf of an indemnified person, to repay all amounts so advanced if it should be determined ultimately that such person is not entitled to be indemnified.

The Registrant entered into indemnification agreements with each of its directors and executive officers. These agreements require the Registrant to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to the Registrant, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified.

The indemnification rights set forth above shall not be exclusive of any other right which an indemnified person may have or hereafter acquire under any statute, provision of the Registrant’s certificate of incorporation or bylaws, agreement, vote of stockholders or disinterested directors or otherwise.

The Registrant maintains standard policies of insurance that provide coverage (1) to its directors and officers against loss arising from claims made by reason of breach of duty or other wrongful act and (2) to the Registrant with respect to indemnification payments that it may make to such directors and officers.

Item 8. Exhibits.

Exhibit Number	Description
4.1	<u>Amended and Restated Certificate of Incorporation, effective September 10, 2014 (incorporated herein by reference to Exhibit 3.1 to the Annual Report on Form 10-K of the Registrant filed with the SEC on March 12, 2015).</u>
4.2	<u>Amendment to Amended and Restated Certificate of Incorporation, filed July 2, 2018 (incorporated herein by reference to Exhibit 3.1 to the Current Report on Form 8-K of the Registrant filed with the SEC on July 2, 2018).</u>
4.3	<u>Amendment to Amended and Restated Certificate of Incorporation, filed as of December 27, 2018 (incorporated herein by reference to Exhibit 3.1 to the Current Report on Form 8-K of the Registrant filed with the SEC on December 31, 2018).</u>
4.4	<u>Certificate of Designation of Series A Convertible Preferred Stock of the Registrant (incorporated herein by reference to Exhibit 3.1 to the Current Report on Form 8-K of the Registrant filed with the SEC on December 20, 2011).</u>
4.5	<u>Certificate of Designation of Series B Cumulative Preferred Stock of the Registrant (incorporated herein by reference to Exhibit 3.1 to the Current Report on Form 8-K of the Registrant filed with the SEC on May 5, 2021).</u>
4.6	<u>Amended and Restated Bylaws of the Registrant (incorporated herein by reference to Exhibit 3.2 to the Annual Report on Form 10-K of the Registrant filed with the SEC on March 28, 2014).</u>
4.7	<u>Description of the Registrant’s Securities (incorporated herein by reference to Exhibit 4.1 to the Annual Report on Form 10-K of the Registrant filed with the SEC on March 8, 2021).</u>
5.1*	<u>Opinion of Waller Lansden Dortch & Davis, LLP, with respect to the legality of the shares of common stock being registered hereby.</u>
23.1*	<u>Consent of KMJ Corbin & Company LLP, Independent Registered Public Accounting Firm.</u>
23.2	<u>Consent of Waller Lansden Dortch & Davis, LLP (included in Exhibit 5.1).</u>
24	<u>Power of Attorney of certain officers and directors of the Registrant to file future amendments (set forth on the signature page of this registration statement).</u>
99.1	<u>Harrow Health, Inc. 2017 Incentive Stock and Awards Plan (incorporated herein by reference to Exhibit 10.1 to the Registrant’s Registration Statement on Form S-8 filed with the SEC on August 25, 2017).</u>
99.2	<u>First Amendment to the Harrow Health, Inc. 2017 Incentive Stock and Awards Plan (incorporated herein by reference to Appendix A to the Registrant’s Definitive Proxy Statement filed with the SEC on April 23, 2021).</u>

* Filed herewith.

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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 Nashville, state of Tennessee, on June 25, 2021.

HARROW HEALTH, INC.

By: /s/ Mark L. Baum

Mark L. Baum
Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Mark L. Baum and Andrew R. Boll, and each of them individually, as his or her true and lawful attorney-in-fact and agent, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement on Form S-8 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, 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, 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/ Mark L. Baum</u> Mark L. Baum	Chief Executive Officer (Principal Executive Officer)	June 25, 2021
<u>/s/ Andrew R. Boll</u> Andrew R. Boll	Chief Financial Officer and Secretary (Principal Financial and Accounting Officer)	June 25, 2021
<u>/s/ Robert J. Kammer</u> Robert J. Kammer	Chairman of the Board of Directors	June 25, 2021
<u>/s/ Richard L. Lindstrom</u> Richard L. Lindstrom	Director	June 25, 2021
<u>/s/ Teresa F. Sparks</u> Teresa F. Sparks	Director	June 25, 2021
<u>/s/ R. Lawrence Van Horn</u> R. Lawrence Van Horn	Director	June 25, 2021



511 Union Street, Suite 2700
P.O. Box 198966
Nashville, TN 37219-8966

615.244.6380 main
615.244.6804 fax
wallerlaw.com

June 25, 2021

Harrow Health, Inc.
102 Woodmont Blvd., Suite 610
Nashville, Tennessee 37205

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Harrow Health, Inc., a Delaware corporation (the "Company"), in connection with the preparation of a Registration Statement on Form S-8 to be filed by the Company under the Securities Act of 1933, as amended (the "Act"), on June 25, 2021 (the "Registration Statement") relating to the registration of an aggregate of 4,000,000 additional shares of the Company's common stock, par value \$0.001 per share (the "Shares"), for issuance by the Company pursuant to the Company's 2017 Incentive Stock and Awards Plan (the "Plan") as set forth in the Registration Statement.

In connection with this opinion, we have examined and relied upon such records, documents and other instruments as in our judgment are necessary or appropriate in order to express the opinions hereinafter set forth and have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity to original documents of all documents submitted to us as certified or photostatic copies.

Based upon the foregoing, we are of the opinion that the Shares, when issued in the manner and on the terms described in the Plan, will be validly issued, fully paid and non-assessable.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not hereby admit that we come within the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Securities and Exchange Commission promulgated thereunder.

Very truly yours,

/s/ Waller Lansden Dortch & Davis, 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 8, 2021, relating to the consolidated financial statements of Harrow Health, Inc. and subsidiaries, appearing in the Annual Report on Form 10-K of Harrow Health, Inc. for the year ended December 31, 2020.

/s/ KMJ Corbin & Company LLP

Irvine, California
June 25, 2021
