

CytoDyn Inc.
Form 425
November 05, 2018

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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): November 5, 2018

CytoDyn Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction

of incorporation)

000-49908
(SEC

File Number)

75-3056237
(I.R.S. Employer

Identification No.)

1111 Main Street, Suite 660

Vancouver, Washington
(Address of principal executive offices)

98660
(Zip Code)

Registrant's telephone number, including area code: (360) 980-8524

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 (see General Instruction A.2. below):

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 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 8.01. Other Events

On November 5, 2018, CytoDyn Inc., a Delaware corporation (the Company) announced that its previously disclosed acquisition of ProstaGene, LLC (ProstaGene) is anticipated to close on or about December 7, 2018. A copy of a related notice to certain security holders of the Company is filed as Exhibit 99.1 to this Form 8-K.

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. This communication is not a substitute for any prospectus or any other document which may be filed with the United States Securities and Exchange Commission (the SEC) in connection with the ProstaGene transaction.

Point NewCo Inc., an affiliate of the Company, has filed with the SEC a registration statement on Form S-4, including a preliminary prospectus, relating to the ProstaGene transaction (the Form S-4). INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE FORM S-4 AND ANY OTHER RELEVANT DOCUMENTS THAT MAY BE FILED WITH THE SEC CAREFULLY AND IN THEIR ENTIRETY, BECAUSE THEY CONTAIN IMPORTANT INFORMATION ABOUT THE PROSTAGENE TRANSACTION. Investors and security holders are able to obtain free copies of the Form S-4 and any other documents filed with the SEC through the web site maintained by the SEC at <http://www.sec.gov/>.

Forward-Looking Statements

This Form 8-K contains certain forward-looking statements that involve risks, uncertainties and assumptions that are difficult to predict, including statements regarding the proposed transaction with ProstaGene, the likelihood of closing the proposed transaction with ProstaGene, the Company's clinical focus, and the Company's current and proposed trials. Words and expressions reflecting optimism, satisfaction or disappointment with current prospects, as well as words such as believes, hopes, intends, estimates, expects, projects, plans, anticipates and variations thereof, of future tense, identify forward-looking statements, but their absence does not mean that a statement is not forward-looking. The Company's forward-looking statements are not guarantees of performance and actual results could differ materially from those contained in or expressed by such statements. In evaluating all such statements, the Company urges investors to specifically consider the various risk factors identified in the Company's Form 10-K for the fiscal year ended May 31, 2018 in the section titled Risk Factors in Part I, Item 1A, as updated by the Form 10-Q for the fiscal period ended August 31, 2018 in the section titled Risk Factors in Part II, Item 1A, any of which could cause actual results to differ materially from those indicated by the Company's forward-looking statements.

The Company's forward-looking statements reflect its current views with respect to future events and are based on currently available financial, economic, scientific, and competitive data and information on current business plans. Investors should not place undue reliance on the Company's forward-looking statements, which are subject to risks and uncertainties relating to, among other things: (i) the sufficiency of the Company's cash position and the Company's ongoing ability to raise additional capital to fund its operations, (ii) the Company's ability to complete its Phase 2b/3 pivotal combination therapy trial for PRO 140 (CD02) and to meet the FDA's requirements with respect to safety and efficacy to support the filing of a Biologics License Application, (iii) the Company's ability to meet its debt obligations, if any, (iv) the Company's ability to identify patients to enroll in its clinical trials in a timely fashion, (v) the Company's ability to achieve approval of a marketable product, (vi) design, implementation and conduct of clinical trials, (vii) the results of the Company's clinical trials, including the possibility of unfavorable clinical trial results, (viii) the market for, and marketability of, any product that is approved, (ix) the existence or development of vaccines, drugs, or other treatments for infection with HIV that are viewed by medical professionals or patients as superior to the Company's products, (x) regulatory initiatives, compliance with governmental regulations and the regulatory approval process, (xi) general economic and business conditions, (xii) changes in foreign, political, and social conditions, and (xiii) various other matters, many of which are beyond the Company's control. Should one or more of these risks or uncertainties develop, or should underlying assumptions prove to be incorrect, actual results

may vary materially and adversely from those anticipated, believed, estimated, or otherwise indicated by the Company's forward-looking statements.

The Company intends that all forward-looking statements made in this Form 8-K will be subject to the safe harbor protection of the federal securities laws pursuant to Section 27A of the Securities Act of 1933, as amended, to the

extent applicable. Except as required by law, the Company does not undertake any responsibility to update these forward-looking statements to take into account events or circumstances that occur after the date of this Form 8-K. Additionally, the Company does not undertake any responsibility to update investors upon the occurrence of any unanticipated events which may cause actual results to differ from those expressed or implied by these forward-looking statements.

Item 9.01. Financial Statements and Exhibits.

| | Exhibit | |
|-----|----------------|---------------------------------------|
| (d) | No. | Description. |
| | 99.1 | <u>Notice dated November 5, 2018.</u> |

SIGNATURES

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.

CytoDyn Inc.

November 5, 2018

By: */s/ Michael D. Mulholland*

Name: Michael D. Mulholland

Title: Chief Financial Officer