

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

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Zivo Bioscience, Inc.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of
incorporation or organization)

87-0699977

(I.R.S. Employer
Identification Number)

21 East Long Lake Road, Suite 100 Bloomfield Hills, MI

(Address of principal executive offices)

48304

(Zip code)

Zivo Bioscience, Inc. 2021 Equity Incentive Plan

(Full title of the plan)

**Keith R. Marchiando
Chief Financial Officer**

Zivo Bioscience, Inc.

21 East Long Lake Road, Ste. 100

Bloomfield Hills, MI 48304

248-452-9866

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

Copy to:

Donald J. Kunz, Esq.

Emily J. Johns, Esq.

Honigman LLP

2290 First National Building

600 Woodward Avenue

Detroit, MI 48226-3506

(313) 465-7454

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

Accelerated filer

Non-accelerated filer

Smaller reporting company

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 7(a)(2)(B) of the Securities Act.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Part I of Form S-8 is omitted from this Registration Statement in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the “*Securities Act*”) and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the plan covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed with the Commission by the Registrant are hereby incorporated by reference in this Registration Statement:

- (a) our Annual Report on Form 10-K for the year ended December 31, 2021 filed with the Commission on [April 22, 2022](#), as amended on [May 2, 2022](#);
- (b) our Quarterly Report on Form 10-Q for the quarter ended March 31, 2022, filed with the Commission on [May 13, 2022](#);
- (c) our Current Reports on Form 8-K filed with the Commission on [January 11, 2022](#), [February 16, 2022](#), [February 25, 2022](#) (as amended by Amendment No. 1 thereto, filed with the Commission on [March 1, 2022](#)), [April 15, 2022](#), [April 25, 2022](#); and
- (d) the description of our Common Stock contained in the registration statement on [Form 8A \(File No. 00137809\) filed with the Commission on June 20, 2016](#) pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), including any amendments or reports filed for the purpose of updating such descriptions.

In addition, all documents the Registrant subsequently files pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, after the filing of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities covered hereby then remaining unsold are incorporated by reference in this Registration Statement and are a part hereof from the date of filing of such documents. Notwithstanding anything herein, the Registrant is not incorporating by reference any information furnished under Item 2.02 or Item 7.01 of any Current Report on Form 8-K, unless, and to the extent, specified in any such Current Report on Form 8-K.

Any statement herein or 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 subsequently filed document, which also is or is deemed to be incorporated by reference herein, modifies or supersedes such prior statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 78.138 of the NRS provides that, unless the corporation's articles of incorporation provide otherwise, a director or officer will not be individually liable unless it is proven that (i) the director's or officer's acts or omissions constituted a breach of his or her fiduciary duties, and (ii) such breach involved intentional misconduct, fraud, or a knowing violation of the law.

Section 78.7502 of the NRS permits a company to indemnify its directors and officers against expenses, judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with a threatened, pending, or completed action, suit, or proceeding, if the officer or director (i) is not liable pursuant to NRS 78.138, or (ii) acted in good faith and in a manner the officer or director reasonably believed to be in or not opposed to the best interests of the corporation and, if a criminal action or proceeding, had no reasonable cause to believe the conduct of the officer or director was unlawful. Section 78.7502 of the NRS requires a corporation to indemnify a director or officer that has been successful on the merits or otherwise in defense of any action or suit. Section 78.7502 of the NRS precludes indemnification by the corporation if the officer or director has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals, to be liable to the corporation or for amounts paid in settlement to the corporation, unless and only to the extent that the court determines that in view of all the circumstances, the person is fairly and reasonably entitled to indemnity for such expenses and requires a corporation to indemnify its officers and directors if they have been successful on the merits or otherwise in defense of any claim, issue, or matter resulting from their service as a director or officer.

Section 78.751 of the NRS permits a Nevada company to indemnify its officers and directors against expenses incurred by them in defending a civil or criminal action, suit, or proceeding as they are incurred and in advance of final disposition thereof, upon determination by the stockholders, the disinterested board members, or by independent legal counsel. If so provided in the corporation's articles of incorporation, bylaws, or other agreement, Section 78.751 of the NRS requires a corporation to advance expenses as incurred upon receipt of an undertaking by or on behalf of the officer or director to repay the amount if it is ultimately determined by a court of competent jurisdiction that such officer or director is not entitled to be indemnified by the company. Section 78.751 of the NRS further permits the company to grant its directors and officers additional rights of indemnification under its articles of incorporation, bylaws, or other agreement.

Section 78.752 of the NRS provides that a Nevada company may purchase and maintain insurance or make other financial arrangements on behalf of any person who is or was a director, officer, employee, or agent of the company, or is or was serving at the request of the company as a director, officer, employee, or agent of another company, partnership, joint venture, trust, or other enterprise, for any liability asserted against him and liability and expenses incurred by him in his capacity as a director, officer, employee, or agent, or arising out of his status as such, whether or not the company has the authority to indemnify him against such liability and expenses.

We have entered into indemnification agreements with each of our officers and directors to provide indemnification to the fullest extent permitted by the NRS against expense, liability, and loss reasonably incurred or suffered by them in connection with their service as an officer or director. The agreements provide for advance costs and expenses incurred with respect to any proceeding to which a person is made a party as a result of being a director or officer prior to or after final disposition of such proceeding upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it is ultimately determined that such person is not entitled to indemnification. We may purchase and maintain liability insurance, or make other arrangements for such obligations or otherwise, to the extent permitted by the NRS.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to the Company's directors, officers or controlling persons pursuant to the provisions described above, or otherwise, the Company has been advised that in the opinion of the Securities and Exchange Commission (the "Commission") such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8.Exhibits.

EXHIBIT INDEX

The following exhibits are filed as part of this registration statement.

INDEX TO EXHIBITS

Exhibit Number	Description
4.1	Articles of Incorporation of the Registrant as amended (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q filed on August 22, 2011)
4.2	Certificate of Amendment to Articles of Incorporation dated October 16, 2014 (incorporated by reference to Exhibit 3.12 to the Registrant's Quarterly Report on Form 10-Q filed on November 14, 2014)
4.3	Certificate to Amendment dated May 28, 2021 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on June 2, 2021)
4.4	Amended and Restated By-laws of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q filed on May 17, 2010)
4.5	Zivo Bioscience, Inc. 2021 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed on February 16, 2022)
5.1	Opinion of Fennemore Craig, P.C.
23.1	Consent of BDO USA, LLP
23.2	Consent of Wolinetz, Lafazan & Company, P.C.
23.3	Consent of Fennemore Craig, P.C. (included in its opinion filed as Exhibit 5.1 to this Registration Statement)
24.1	Power of Attorney (included after the signature of the Registrant contained on the Signature Page of this Registration Statement)
107	Filing Fee Table

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 of 1933;

(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 Commission 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) of this section 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 Commission by the Registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Registration Statement; and

(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 Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the 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 of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the 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 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 Bloomfield Hills, State of Michigan, on June 22, 2022.

ZIVO BIOSCIENCE, INC.

By: /s/ Keith R. Marchiando
Keith R. Marchiando
Chief Financial Officer, and Secretary

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints John Payne and Keith Marchiando, or either of them, as his or her true and lawful attorneys-in-fact and agents, with the full power of substitution and resubstitution, for him or her and in his or her name, place or stead, in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments), 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 or she 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 or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement on Form S-8 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/ John B. Payne</u> John B. Payne	Chief Executive Officer, President and Director	June 22, 2022
<u>/s/ Keith R. Marchiando</u> Keith R. Marchiando	Chief Financial Officer, and Secretary	June 22, 2022
<u>/s/ Christopher D. Maggiore</u> Christopher D. Maggiore	Director	June 22, 2022
<u>/s/ Nola E. Masterson</u> Nola E. Masterson	Director	June 22, 2022
<u>/s/ Alison A. Cornell</u> Alison A. Cornell 43919301	Director	June 22, 2022

FENNEMORE.

7800 Rancharrah Parkway,
Reno, Nevada 89511
PH (775) 788-2200 | FX (775)
786-1177
fennemorelaw.com

June 22, 2022

Zivo Bioscience, Inc.
2804 Orchard Lake Rd., Suite 202
Keego Harbor, Michigan 48320

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the registration under the Securities Act of 1933, as amended (the “Act”), by Zivo Bioscience, Inc., a Nevada corporation (the “Company”), by means of a registration statement on Form S-8 (as it may be amended and supplemented, the “Registration Statement”), filed with the Securities and Exchange Commission (the “Commission”), of 1,470,983 shares (the “Incentive Shares”) of common stock, par value \$0.001 per share of the Company, that will be issued pursuant to the Zivo Bioscience, Inc., 2021 Equity Incentive Plan (the “Plan”).

In connection with this opinion, we have examined and relied upon (i) the Registration Statement, (ii) the Plan and (iii) the Company’s articles of incorporation and bylaws, each as amended and currently in effect, and the originals or copies certified to our satisfaction of 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 examined originals or copies of such other corporate records, certificates of corporate officers and public officials and other agreements and documents as we have deemed necessary or advisable for purposes of this opinion letter. We have relied upon the certificates of all public officials and corporate officers with respect to the accuracy of all factual matters contained therein. With respect to the Incentive Shares, we have assumed that at the time of issuance, the Company has sufficient authorized, but unissued shares available to allow for such issuance.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that when Incentive Shares are issued pursuant to the Plan or pursuant to stock options or other instruments that have been issued pursuant to the Plan, such Incentive Shares will be validly issued, fully paid and nonassessable.

Our opinion is limited to the laws of the State of Nevada. We express no opinion as to the effect of the law of any other jurisdiction. Our opinion is rendered as of the date hereof, and we assume no obligation to advise you of changes in law or fact (or the effect thereof on the opinions expressed herein) that hereafter may come to our attention.

We hereby consent to the inclusion of this opinion as Exhibit 5.1 to the Registration Statement and to the references to our firm therein and in the Prospectus and in any Prospectus Supplement under the caption "Legal Matters." In giving our consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations thereunder.

Very truly yours,

/s/ Fennemore Craig, P.C.
Fennemore Craig, P.C.

Consent of Independent Registered Public Accounting Firm

Zivo Bioscience Inc.
Bloomfield Hills, Michigan

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 of Zivo Bioscience Inc. and subsidiaries of our report dated April 22, 2022, relating to the consolidated financial statements, appearing in the Company's Annual Report on Form 10-K for the year ended December 31, 2021. Our report contains an explanatory paragraph regarding the Company's ability to continue as a going concern.

/s/ BDO USA, LLP

Troy, Michigan
June 22, 2022

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of Zivo Bioscience, Inc. of our report dated February 25, 2021 (except for the effect of the recapitalization-reverse stock split described in Note 10, as to which the date is April 22, 2022) relating to our audits of the consolidated financial statements of Zivo Bioscience, Inc., which appears in the Annual Report on Form 10-K of Zivo Bioscience, Inc. for the year ended December 31, 2020.

/s/ WOLINETZ, LAFAZAN & COMPANY, P.C.

Oceanside, New York
June 22, 2022

Calculation of Filing Fee Table

FORM S-8
(Form Type)Zivo Bioscience, Inc.
(Exact Name of Registrant as Specified in its Charter)

Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered (1)(2)	Proposed Maximum Offering Price Per Unit(3)	Maximum Aggregate Offering Price (3)	Fee Rate	Amount of Registration Fee
Equity	Common stock, \$0.001 par value per share	Rule 457(c) and Rule 457(h)	1,470,983	\$ 3.28	\$ 4,824,824.24	0.0000927	\$ 447.26
Total Offering Amounts							\$ 447.26
Total Fee Offsets							\$ -
Net Fee Due							\$ 447.26

- (1) Zivo Bioscience, Inc., a Nevada corporation (the "Registrant"), is registering 1,470,983 shares of common stock that may be issued under the Zivo Bioscience, Inc. 2021 Equity Incentive Plan (the "2021 Plan"). 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 common stock that become issuable under the 2021 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 common stock, as applicable.
- (2) The number of shares of common stock available for issuance under the 2021 Plan is subject to an automatic annual increase on the first day of each fiscal year, beginning on January 1, 2021 and ending on (and including) January 1, 2030, with such annual increase equal to 5% of the total number of shares of common stock outstanding on December 31 of the preceding year, provided that the board of directors of the Registrant may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares. Accordingly, the number of shares of common stock available for issuance under the 2021 Plan was automatically increased by 470,983 shares effective January 1, 2022, which is equal to 5% of the total number of shares of common stock outstanding as of December 31, 2021.
- (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Act. The proposed maximum offering price per share and proposed maximum aggregate offering price are based on the average of the high and low prices of the Registrant's common stock as reported on the Nasdaq Capital Market on June 16, 2022.