# 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): **January 3, 2024 (January 2, 2024)**

# Esperion Therapeutics, Inc.
(Exact name of registrant as specified in its charter)

| **Delaware** | **001-35986** | **26-1870780** |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission File Number) | (I.R.S. Employer Identification No.) |

| **3891 Ranchero Drive, Suite 150**<br>**Ann Arbor, MI**<br>(Address of principal executive offices) | **48108**<br>(Zip Code) |
|---|---|

Registrant's telephone number, including area code: **(734) 887-3903**

**Not Applicable**
Former name or former address, if changed since last report

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:

☐ 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))

Securities registered pursuant to Section 12(b) of the Act:

| **Title of each class** | **Trading Symbol** | **Name of each exchange on which registered** |
|---|---|---|
| Common Stock, par value $0.001 per share | ESPR | NASDAQ Stock Market LLC |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934.

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 1.01. Entry into a Material Definitive Agreement.**

On January 2, 2024, Esperion Therapeutics, Inc. (the "Company") entered into a settlement agreement with Daiichi Sankyo Europe GmbH ("DSE") to amicably resolve and dismiss their commercial dispute now pending in the Southern District of New York (the "Settlement Agreement"). Under the Settlement Agreement, DSE has agreed to pay the Company an aggregate of $125 million, including (1) a $100-million payment within 15 business days of the effective date of the Settlement Agreement and (2) a $25-million payment in the calendar quarter immediately following the calendar quarter in which the European Medicines Agency ("EMA") renders a decision on the application that was filed with the EMA for a Type II(a) variation for the Company's oral non-statin products marketed as NILEMDO® (bempedoic acid) tablets and NUSTENDI® (bempedoic acid and ezetimibe) tablets in Europe. The application asks the EMA to approve both NILEMDO and NUSTENDI to reduce cardiovascular risk in patients with or at high risk for atherosclerotic cardiovascular disease. The legal action pending in the United States District Court for the Southern District of New York will be dismissed.

Pursuant to the Settlement Agreement, also on January 2, 2024, the Company entered into a 3rd Amendment (the "DSE Amendment") to the License and Collaboration Agreement dated January 2, 2019 with DSE, and a 1st Amendment (the "DS Amendment") to the License and Collaboration Agreement dated April 26, 2021 with Daiichi Sankyo Company Limited ("DS").

The DSE Amendment and the DS Amendment grant each of DSE and DS exclusive rights for clinical development, regulatory activities, manufacture and commercialization of a bempedoic acid/ezetimibe/statin triple combination pill in their existing respective territories of the European Economic Area, UK, Switzerland and Turkey (the "DSE Territory") and South Korea, Taiwan, Hong Kong, Thailand, Vietnam, Brazil, Macao, Cambodia and Myanmar (the "DS Territory"). Further, after a transition period, DSE and DS will assume sole responsibility for the manufacture of NILEMDO and NUSTENDI for, respectively, the DSE Territory and DS Territory. As of January 2, 2024, DSE shall have sole authority and control of regulatory communications with the EMA regarding the pending marketing authorization applications for NILEMDO and NUSTENDI.

Pursuant to the DSE Amendment, the Company is entitled to receive one-time cash payments of up to $300 million upon the achievement of certain commercial milestones related to total net sales achievements in the DSE Territory. The Company is also entitled to receive tiered 15% to 25% royalties on net DSE Territory sales.

Pursuant to the DS Amendment, the Company is entitled to receive one-time cash payments of up to $175 million upon the achievement of certain commercial milestones related to total net sales achievements in the DS Territory. The Company is also entitled to receive tiered 5% to 20% royalties on net DS Territory sales.

The foregoing descriptions of the material terms of the Settlement Agreement, DSE Amendment and DS Amendment are qualified in their entirety by reference to the complete text of the Settlement Agreement, DSE Amendment and DS Amendment, respectively, which the Company intends to file, with confidential terms redacted, with the Securities and Exchange Commission.

**Item 7.01. Regulation FD Disclosure.**

On January 3, 2024, Esperion Therapeutics, Inc. (the "Company") announced the settlement of its pending litigation with DSE. A copy of the press release is being furnished herewith as Exhibit 99.1.

The information contained in Item 7.01 of this Current Report on Form 8-K and Exhibit 99.1 attached hereto is intended to be furnished and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, except as expressly set forth by specific reference in such filing.

**Item 9.01. Financial Statements and Exhibits.**

| Exhibit No. | Description |
|---|---|
| 99.1 | Press release dated January 3, 2024. |
| 104 | The cover page from this Current Report on Form 8-K, formatted in Inline XBRL. |

**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.

Date: January 3, 2024

Esperion Therapeutics, Inc.

By: /s/ Sheldon L. Koenig
Sheldon L. Koenig
President and Chief Executive Officer

**Exhibit 99.1**

**Esperion and Daiichi Sankyo Europe Announce $125 Million Amendment to Their Collaboration, Including Resolution of Pending Litigation**

*– Near term payment to Esperion of $100 million plus $25 million in calendar quarter following EMA's expected decision on Type II(a) variation approval of NILEMDO® (bempedoic acid) Tablet and NUSTENDI® (bempedoic acid and ezetimibe) Tablet –*

*– Amendment also includes transfer of certain manufacturing and supply rights to DSE and expansion of collaboration in Europe and other territories –*

**ANN ARBOR, Mich. and MUNICH, Germany, January 3, 2024** (GLOBE NEWSWIRE) – Esperion Therapeutics, Inc. (NASDAQ: ESPR) and Daiichi Sankyo Europe GmbH (DSE), the European headquarter organization of the Japanese pharmaceutical company Daiichi Sankyo Co., Ltd. (TSE: 4568), announced today a $125 million amendment to their collaboration, which includes an amicable resolution to their commercial dispute and certain other adjustments to enhance the long-term value of their products.

DSE has agreed to pay Esperion $100 million in mid-January ahead of an anticipated Type II(a) variation approval by the European Medicines Agency (EMA) for NILEMDO® (bempedoic acid) Tablet and NUSTENDI® (bempedoic acid and ezetimibe) Tablet. DSE will make an additional $25 million payment to Esperion in the calendar quarter immediately following EMA's decision on the pending application. The legal action pending in the United States District Court for the Southern District of New York will be dismissed.

The parties also agreed, as part of the resolution:

- for Esperion to transition to DSE manufacturing and supply responsibilities in Europe and other territories, resulting in significant cost savings and efficiencies for both companies.
- to expand their collaboration in Europe and other territories, to include the potential development and commercialization of a triple formulation product comprising bempedoic acid, ezetimibe and a statin, which could represent significant long-term value for the collaboration.
- for DSE to now lead all regulatory communications with the EMA regarding the pending applications.

"We are pleased that this settlement creates value for Esperion today through cash payments and includes additional terms that will continue creating value for both companies going forward. Importantly, today's settlement allows Esperion and DSE to focus on the business at hand – delivering life-saving drug therapies to millions with high cholesterol," said Sheldon Koenig, Esperion's President and CEO. "Together, we are committed to making bempedoic acid a blockbuster franchise worldwide, based on the differentiating profiles of our products."

“This is a positive resolution for patients. We look forward to continuing to apply our combined strengths around the world to bring innovative pharmaceutical products to patients with cardiovascular disease, the greatest cause of death and disability globally,” said Oliver Appelhans, Head of the Specialty Business Unit of Daiichi Sankyo Europe.

Since 2019, Esperion and DSE have worked together to bring bempedoic acid to the eligible patient population and unlock its potential for cardiovascular risk reduction. The partnership continues to grow, with DSE recently gaining approvals for bempedoic acid in the Netherlands, Slovakia, and Spain.

**About Esperion Therapeutics**
At Esperion, we discover, develop, and commercialize innovative medicines to help improve outcomes for patients with or at risk for cardiovascular and cardiometabolic diseases. The status quo is not meeting the health needs of millions of people with high cholesterol – that is why our team of passionate industry leaders is breaking through the barriers that prevent patients from reaching their goals. Providers are moving toward reducing LDL-cholesterol levels as low as possible, as soon as possible; we provide the next steps to help get patients there. Because when it comes to high cholesterol, getting to goal is not optional. It is our life’s work. For more information, visit esperion.com and esperionscience.com and follow us on X at twitter.com/EsperionInc.

**About Daiichi Sankyo**
Daiichi Sankyo is an innovative global healthcare company contributing to the sustainable development of society that discovers, develops, and delivers new standards of care to enrich the quality of life around the world. With more than 120 years of experience, Daiichi Sankyo leverages its world-class science and technology to create new modalities and innovative medicines for people with cancer, cardiovascular and other diseases with high unmet medical need. For more information, please visit www.daiichi-sankyo.eu.

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