

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): April 24, 2019

TherapeuticsMD, Inc.

(Exact Name of Registrant as Specified in its Charter)

Nevada

(State or Other
Jurisdiction of Incorporation)

001-00100

(Commission File Number)

87-0233535

(IRS Employer
Identification No.)

6800 Broken Sound Parkway NW, Third Floor
Boca Raton, FL 33487

(Address of Principal Executive Office) (Zip Code)

Registrant's telephone number, including area code: (561) 961-1900

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))

Indicate by check mark whether the registrant is an emerging growth company 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 1.01. Entry into a Material Definitive Agreement.

On April 24, 2019, TherapeuticsMD, Inc., a Nevada corporation (the “Company”), entered into a Financing Agreement (the “Financing Agreement”) with TPG Specialty Lending, Inc., as administrative agent (the “Administrative Agent”), various lenders from time to time party thereto, and certain of the Company’s subsidiaries party thereto from time to time as guarantors, which provides a \$300 million first lien secured term loan credit facility (the “Facility”) to the Company.

The Facility provides for availability to the Company in three tranches: (i) \$200 million was drawn by the Company upon entering into the Financing Agreement; (ii) \$50 million will be available to the Company upon the designation of the Company’s ANNOVERATM product as a new category of birth control by the U.S. Food and Drug Administration on or prior to December 31, 2019 and satisfaction (or waiver) of other customary conditions precedent; and (iii) \$50 million will be available to the Company upon the Company achieving \$11 million in net revenues from the Company’s IMVEXXY®, BIJUVATM, and ANNOVERATM products for the fourth quarter of 2019 and satisfaction (or waiver) of other customary conditions precedent.

Borrowings under the Facility will accrue interest, at the Company’s option, at either (i) 3-month LIBOR plus 7.75%, subject to a LIBOR floor of 2.70% or (ii) the prime rate plus 6.75%, subject to a prime rate floor of 5.20%. Interest on amounts borrowed under the Facility will be payable quarterly. The outstanding principal amount of the Facility will be payable in four equal quarterly installments beginning on June 30, 2023, with the Facility maturing on March 31, 2024. The Company will also have the right to prepay borrowings under the Facility in whole or in part at any time, subject to a prepayment fee on the principal amount being prepaid of (i) 30.0% for the first two years following the initial funding date of the applicable borrowing; (ii) 5.0% for the third year following the initial funding date of the applicable borrowing; (iii) 3.0% for the fourth year following the initial funding date of the applicable borrowing; and (iv) 1.0% for the fifth year following the initial funding date of the applicable borrowing but prior to March 31, 2024. The four scheduled quarterly principal installment payments are not subject to prepayment fees. In connection with the initial borrowing under the Facility, the Company paid the Administrative Agent, for the benefit of the lenders, a facility fee equal to 2.5% of the initial amount borrowed and will be required to pay such a facility fee in connection with any subsequent borrowings under the Facility. The Company will also be required to pay the Administrative Agent and the lenders an annual administrative fee in addition to other fees and expenses.

The Financing Agreement contains customary mandatory prepayments, restrictions, and covenants applicable to the Company that are customary for financings of this type. Among other requirements, the Company will be required to (i) maintain a minimum unrestricted cash balance of \$50 million, which will increase to \$60 million if the Company draws either the second or third tranche of the Facility, and (ii) achieve certain minimum consolidated net revenue amounts attributable to commercial sales of the Company’s IMVEXXY®, BIJUVATM, and ANNOVERATM products beginning with the fourth quarter of 2020. The Financing Agreement also includes other representations, warranties, indemnities, and events of default that are customary for financings of this type, including an event of default relating to a change of control of the Company. Upon or after an event of default, the Administrative Agent and the lenders may declare all or a portion of the Company’s obligations under the Financing Agreement to be immediately due and payable and exercise other rights and remedies provided for under the Financing Agreement.

The obligations of the Company and its subsidiaries under the Financing Agreement are secured, subject to customary permitted liens and other agreed upon exceptions, by a first priority perfected security interest in all existing and after-acquired assets of the Company and its subsidiaries. The obligations under the Financing Agreement will be guaranteed by each of the Company’s future direct and indirect subsidiaries, subject to certain exceptions.

The foregoing summary of the terms of the Financing Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Financing Agreement, a copy of which will be filed as an exhibit to the Company’s Quarterly Report on Form 10-Q for the quarter ending June 30, 2019.

Item 1.02 Termination of a Material Definitive Agreement.

On April 24, 2019, the Company terminated that certain Credit and Security Agreement, dated May 1, 2018, as amended (the “MidCap Agreement”), between the Company, its subsidiaries party thereto, MidCap Financial Trust (“MidCap”), as administrative agent, and the lenders party thereto. A portion of the initial tranche of borrowing under the Facility in the amount of approximately \$81.7 million was used to repay all amounts outstanding under the MidCap Agreement, which included a prepayment fee of 4%, a repayment fee of 4% and other fees and expenses payable to MidCap and the lenders under the MidCap Agreement.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On April 24, 2019, the Company entered into the Financing Agreement. The description of the Financing Agreement set forth under Item 1.01 of this Current Report on Form 8-K is hereby incorporated by reference into this Item 2.03 as if fully set forth herein.

Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.

The description of the termination of the MidCap Agreement set forth under Item 1.02 of this Current Report on Form 8-K is hereby incorporated by reference into this Item 2.04 as if fully set forth herein.

Item 7.01 Regulation FD Disclosure.

On April 24, 2019, the Company issued a press release announcing that it had entered into the Financing Agreement. A copy of the press release is attached as Exhibit 99.1 hereto.

The information being furnished pursuant to Item 7.01 of this Current Report on Form 8-K and in Exhibit 99.1 hereto shall not be deemed to be “filed” for the purpose of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section, nor will any of such information or exhibits be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except as expressly set forth by specific reference in such filing.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Index

Exhibit Number	Description
<u>99.1</u>	Press Release, dated April 24, 2019, issued by TherapeuticsMD, Inc., titled TherapeuticsMD Closes \$300 Million Non-Dilutive Term Loan Financing Facility with TPG Sixth Street Partners.

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.

Dated: April 25, 2019

THERAPEUTICSMD, INC.

/s/ Daniel A. Cartwright

Name: Daniel A. Cartwright

Title: Chief Financial Officer



FOR IMMEDIATE RELEASE

**TherapeuticsMD Closes \$300 Million Non-Dilutive Term Loan Financing Facility
with TPG Sixth Street Partners**

-Leading Healthcare Investor Provides TherapeuticsMD with Strategic Growth Capital-

- Non-Dilutive Funding Supports the Launches of BIJUVATM and ANNOVERATM-

BOCA RATON, Fla., April 24, 2019 – TherapeuticsMD, Inc. (NASDAQ: TXMD), an innovative, leading women’s healthcare company, today announced that it has closed its previously disclosed \$300 million non-dilutive secured term loan financing facility with TPG Sixth Street Partners (“TSSP”), the global finance and investment business in strategic partnership with TPG, the global alternative asset firm.

The TSSP term loan facility will be available to the company in three tranches:

- The initial tranche of \$200 million was drawn by TherapeuticsMD at the closing of the facility;
- \$50 million will be available upon the designation of ANNOVERA as a new category of birth control by the U.S. Food and Drug Administration on or prior to December 31, 2019; and
- \$50 million will be available upon TherapeuticsMD achieving \$11 million in net revenues from IMVEXXY[®], BIJUVA and ANNOVERA for the fourth quarter of 2019.

Borrowings under the TSSP term loan facility will accrue interest at 3-month LIBOR plus 7.75%, subject to a LIBOR floor of 2.70%. Interest on amounts borrowed under the facility will be payable quarterly. The outstanding principal amount of the term loan facility will be payable in four equal quarterly installments beginning on June 30, 2023, with the term loan facility maturing on March 31, 2024.

In connection with the closing of the TSSP facility, TherapeuticsMD terminated its term loan credit and security agreement with MidCap Financial Trust, managed by Apollo Capital Management, L.P. A portion of the initial tranche of the TSSP term loan facility was used to repay all amounts outstanding under the MidCap agreement.

About TPG Sixth Street Partners (TSSP)

TPG Sixth Street Partners (TSSP) is a global finance and investment business with over \$30 billion in assets under management. Co-founded in 2009 by Managing Partner Alan Waxman and TSSP’s management team, the firm’s long-term oriented, highly flexible capital base allows it to invest across industries, geographies, capital structures and asset classes. TSSP focuses on partnering with businesses and management teams to create fully committed financing solutions. The firm also makes investments in both private and public companies and assets. TSSP is in a strategic partnership with TPG, the global alternative asset firm. For more information, visit www.tssp.com.

About TherapeuticsMD, Inc.

TherapeuticsMD, Inc. is an innovative, leading healthcare company, focused on developing and commercializing novel products exclusively for women. Our products are designed to address the unique changes and challenges women experience through the various stages of their lives with a therapeutic focus in family planning, reproductive health, and menopause management. The company is committed to advancing the health of women and championing awareness of their healthcare issues. To learn more about TherapeuticsMD, please visit www.therapeuticsmd.com or follow us on Twitter: @TherapeuticsMD and on Facebook: TherapeuticsMD.

Forward-Looking Statements

This press release by TherapeuticsMD, Inc. may contain forward-looking statements. Forward-looking statements may include, but are not limited to, statements relating to TherapeuticsMD's objectives, plans and strategies as well as statements, other than historical facts, that address activities, events or developments that the company intends, expects, projects, believes or anticipates will or may occur in the future. These statements are often characterized by terminology such as "believes," "hopes," "may," "anticipates," "should," "intends," "plans," "will," "expects," "estimates," "projects," "positioned," "strategy" and similar expressions and are based on assumptions and assessments made in light of management's experience and perception of historical trends, current conditions, expected future developments and other factors believed to be appropriate. Forward-looking statements in this press release are made as of the date of this press release, and the company undertakes no duty to update or revise any such statements, whether as a result of new information, future events or otherwise. Forward-looking statements are not guarantees of future performance and are subject to risks and uncertainties, many of which are outside of the company's control. Important factors that could cause actual results, developments and business decisions to differ materially from forward-looking statements are described in the sections titled "Risk Factors" in the company's filings with the Securities and Exchange Commission, including its most recent Annual Report on Form 10-K and Quarterly Reports on Form 10-Q, as well as reports on Form 8-K, and include the following: the company's ability to maintain or increase sales of its products; the company's ability to develop and commercialize IMVEXXY[®], ANNOVERA[™], BIJUVA[™] and its hormone therapy drug candidates and obtain additional financing necessary therefor; whether the company will be able to comply with the covenants and conditions under its term loan facility; the potential of adverse side effects or other safety risks that could adversely affect the commercialization of the company's current or future approved products or preclude the approval of the company's future drug candidates; the length, cost and uncertain results of future clinical trials; the company's reliance on third parties to conduct its manufacturing, research and development and clinical trials; the availability of reimbursement from government authorities and health insurance companies for the company's products; the impact of product liability lawsuits; the influence of extensive and costly government regulation; the volatility of the trading price of the company's common stock and the concentration of power in its stock ownership. PDF copies of the company's historical press releases and financial tables can be viewed and downloaded at its website: www.therapeuticsmd.com/pressreleases.aspx.

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Investor Contact

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