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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

HELIUS MEDICAL TECHNOLOGIES, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

36-4787690
(I.R.S. Employer
Identification Number.)

642 Newtown Yardley Road, Suite 100
Newtown, Pennsylvania
(Address of principal executive offices)

18940
(Zip code)

Helius Medical Technologies, Inc. 2022 Equity Incentive Plan
Helius Medical Technologies, Inc. 2021 Inducement Plan
(Full title of the plan)

Dane C. Andreeff
President and Chief Executive Officer
Helius Medical Technologies, Inc.
642 Newtown Yardley Road, Suite 100
Newtown, Pennsylvania 18940
(215) 944-6100

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

Copy to:

Phillip D. Torrence, Esq.
Emily J. Johns, Esq.
Honigman LLP
650 Trade Center Way, Suite 200
Kalamazoo, Michigan 49002-0402
(269) 337-7700

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.

EXPLANATORY NOTE

Inducement Plan

On December 15, 2022, Helius Medical Technologies, Inc. (the “*Company*,” the “*Registrant*,” “*we*,” “*us*,” or “*our*”) approved an amendment (the “*Inducement Plan Amendment*”) to the Helius Medical Technologies, Inc. 2021 Inducement Plan (the “*2021 Inducement Plan*”), pursuant to which the Company reserved an increase of 500,000 shares of its common stock, par value \$0.001 per share (the “*Common Stock*”) to be used exclusively for grants of equity-based awards to individuals who were not previously employees or directors of the Company, as an inducement material to the individual’s entry into employment with the Company within the meaning of Rule 5635(c)(4) of the Nasdaq Listing Rules. The 2021 Inducement Plan provides for the grant of equity-based awards in the form of nonstatutory stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance stock awards, cash awards, and other stock awards. The Inducement Plan Amendment was adopted by our board of directors without stockholder approval pursuant to Rule 5635(c)(4) of the Nasdaq Listing Rules.

2022 Equity Incentive Plan

This Registration Statement on Form S-8 is also being filed by the Company, for the purpose of registering an additional 12,094,701 shares of Common Stock issuable pursuant to the Helius Medical Technologies, Inc. 2022 Equity Incentive Plan (the “*2022 Equity Incentive Plan*”).

Pursuant to General Instruction E to Form S-8, this Registration Statement is being filed for the purpose of increasing the number of securities of the same class as other securities for which Registration Statements of the Company on Form S-8 relating to the 2021 Inducement Plan and the 2022 Equity Incentive Plan, respectively, are effective, and the Company’s Registration Statements on Form S-8 previously filed with the Securities and Exchange Commission (the “*Commission*”) on July 7, 2021 ([File No. 333-257749](#)) and on May 31, 2022 ([File No. 333-265324](#)) registering shares of Common Stock issuable under the 2021 Inducement Plan and the 2022 Equity Incentive Plan, respectively, are incorporated by reference in this Registration Statement.

PART I

INFORMATION REQUIRED IN 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) the Registrant’s [Annual Report on Form 10-K for the year ended December 31, 2021 filed with the Securities and Exchange Commission \(the “*Commission*”\) on March 14, 2022](#) (including information specifically incorporated by reference therein from the Registrant’s [Proxy Statement filed with the Commission on April 22, 2022](#));
- (b) the Registrant’s Quarterly Reports on Form 10-Q for the quarter ended March 31, 2022 filed with the Commission on [May 12, 2022](#), the quarter ended June 30, 2022 filed with the Commission on [August 15, 2022](#) and the quarter ended September 30, 2022 filed with the Commission on [November 14, 2022](#);

- (c) the Registrant's Current Reports on Form 8-K filed with the Commission on [February 18, 2022](#), [March 11, 2022](#), [April 27, 2022](#), [May 27, 2022](#), [August 9, 2022](#), [September 23, 2022](#), and [September 30, 2022](#);
- (d) the description of the Registrant's Common Stock contained in the Registrant's [Form 8-A \(File No. 001-38445\) filed with the Commission on April 4, 2018](#), as amended by the description of the Common Stock contained in [Exhibit 4.7 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2020](#), and as further amended by any subsequent amendment or report filed for the purpose of updating such description.

In addition, all documents the Registrant subsequently files pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (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.

We are incorporated under the laws of the State of Delaware. Section 102 of the Delaware General Corporation Law permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his or her 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.

Section 145 of the Delaware General Corporation Law provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he or she is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

As permitted by the Delaware General Corporation Law, our amended and restated bylaws provide that: (1) we are required to indemnify our directors and executive officers to the fullest extent permitted by the Delaware General Corporation Law; (2) we may, in our discretion, indemnify our other officers, employees and agents as set forth in the Delaware General Corporation Law; (3) we are required, upon satisfaction of certain conditions, to advance all expenses incurred by our directors and executive officers in connection with certain legal proceedings; (4) the rights conferred in the bylaws are not exclusive; (5) we are authorized to enter into indemnification agreements with our directors, officers, employees and agents; and (6) we may secure insurance on behalf of any director, officer, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law.

Indemnification Agreements

We have entered into indemnification agreements with our directors and officers. These agreements provide broader indemnity rights than those provided under the Delaware General Corporation Law and the Registrant's certificate of incorporation, as amended. The indemnification agreements are not intended to deny or otherwise limit third-party or derivative suits against us or our directors or officers, but to the extent a director or officer were entitled to indemnity or contribution under the indemnification agreement, the financial burden of a third-party suit would be borne by us, and we would not benefit from derivative recoveries against the director or officer. Such recoveries would accrue to our benefit but would be offset by our obligations to the director or officer under the indemnification agreement.

Insurance Policy

We maintain a directors' and officers' liability insurance policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses for which we have lawfully indemnified the directors and officers. The policy contains various exclusions.

The foregoing summaries are not intended to be exhaustive and are qualified in their entirety by reference to the complete text of the statute, the Registrant's certificate of incorporation, as amended and the agreements referred to above and are qualified in their entirety by reference thereto.

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	Certificate of Conversion filed with the Delaware Secretary of State on July 18, 2018 (incorporated by reference to Exhibit 3.1 to the Form 10-Q filed August 9, 2018)
4.2	Certificate of Incorporation, as corrected (incorporated by reference to Exhibit 3.1 to the Form 8-K filed October 30, 2018)
4.3	Certificate of Amendment to Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Form 8-K filed on December 31, 2020)

4.4	Bylaws as amended and restated (incorporated by reference to Exhibit 3.3 to the Form 10-Q filed August 9, 2018).
4.5†	Helius Medical Technologies, Inc. 2021 Inducement Plan (incorporated by reference to Exhibit 4.6 to the Form S-8 filed July 7, 2021)
4.6†	Form of Stock Option Grant Notice, Option Agreement and Notice of Exercise under the Helius Medical Technologies, Inc. 2021 Inducement Plan (incorporated by reference to Exhibit 4.5 to the Form S-8 filed July 7, 2021)
4.7†	Helius Medical Technologies, Inc. 2022 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Form 8-K filed on February 18, 2022)
4.8†	Helius Medical Technologies, Inc. 2022 Equity Incentive Plan Form of Stock Option Agreement (incorporated by reference to Exhibit 10.3 to the Form 8-K filed on February 18, 2022)
5.1	Opinion of Honigman LLP
23.1	Consent of BDO USA, LLP
23.2	Consent of Honigman LLP (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 Signature Page of this Registration Statement)
107	Filing Fee Table

†-Indicates management compensatory plan, contract or arrangement.

Item 9. Undertakings.

- (a) The 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 Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 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) 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 Exchange Act 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 the 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 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 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 Commission 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, hereunto duly authorized, in City of Newtown, State of Pennsylvania, on January 19, 2023.

Heliu Medical Technologies, Inc.

By: /s/ Dane C. Andreeff

Name: Dane C. Andreeff

Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Dane C. Andreeff and Jeffrey Mathiesen as his or her true and lawful attorneys-in-fact and agents with full power of substitution, severally, for him in any and all capacities, to sign the Registration Statement on Form S-8 of Helius Medical Technologies, Inc., and any or all amendments (including post-effective amendments thereto), 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 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 for 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 his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

Signature	Title	Date
<u>/s/ Dane C. Andreeff</u> Dane C. Andreeff	President, Chief Executive Officer (Principal Executive Officer) and Director	January 19, 2023
<u>/s/ Jeffrey S. Mathiesen</u> Jeffrey S. Mathiesen	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer), Treasurer, Secretary and Director	January 19, 2023
<u>/s/ Paul Buckman</u> Paul Buckman	Director	January 19, 2023
<u>/s/ Blane Walter</u> Blane Walter	Director	January 19, 2023
<u>/s/ Sherrie Perkins</u> Sherrie Perkins	Director	January 19, 2023
<u>/s/ Edward M. Straw</u> Edward M. Straw	Director	January 19, 2023

HONIGMAN

January 19, 2023

Helius Medical Technologies, Inc.
642 Newtown Yardley Road, Suite 100
Newtown, Pennsylvania 18940

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Helius Medical Technologies, Inc., a Delaware corporation (the "**Company**"), in connection with the preparation and filing with the Securities and Exchange Commission (the "**Commission**") of a Registration Statement on Form S-8 (the "**Registration Statement**") for the registration under the Securities Act of 1933, as amended (the "**Securities Act**"), of a maximum of 12,594,701 shares (the "**Shares**") of the Company's common stock, par value \$0.001 per share (the "**Common Stock**"), including (i) 500,000 shares of Common Stock to be issued pursuant to awards under the Helius Medical Technologies, Inc. 2021 Inducement Plan, as amended (the "**Inducement Plan**") and (ii) 12,094,701 shares of Common Stock to be issued pursuant to awards under the Helius Medical Technologies, Inc. 2022 Equity Incentive Plan (the "**Equity Incentive Plan**"), and together, with the Inducement Plan, the "**Plans**" and each, individually, a "**Plan**").

Based upon our examination of such documents and other matters as we deem relevant, we are of the opinion that the Shares to be offered by the Company under the Plans pursuant to the Registration Statement are duly authorized and, when issued, delivered and sold by the Company in accordance with the respective Plan and the awards thereunder, the Registration Statement and the related prospectus, will be validly issued, fully paid and non-assessable.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Registration Statement. In giving such consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act or the rules and regulations promulgated thereunder by the Commission.

Very truly yours,

/s/ Honigman LLP

HONIGMAN LLP

EJJ/GDP/RZK

Consent of Independent Registered Public Accounting Firm

Helius Medical Technologies, Inc.
Newtown, Pennsylvania

We hereby consent to the incorporation by reference in this Registration Statement of our report dated March 14, 2022, relating to the consolidated financial statements of Helius Medical Technologies, Inc. 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

Philadelphia, Pennsylvania

January 19, 2023

Calculation of Filing Fee Table

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

Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Class A Common stock, \$0.001 par value per share, reserved for issuance under the 2022 Equity Incentive Plan	Rule 457(c) and Rule 457(h)	12,094,701(1)(3)	\$ 0.38(2)	\$ 4,595,986.38(2)	0.00011020	\$ 506.48
Equity	Class A Common Stock, \$0.001 par value per share, reserved for issuance under the 2021 Inducement Plan	Rule 457(c) and Rule 457(h)	500,000(1)(4)	\$ 0.38(2)	\$ 190,000.00(2)	0.00011020	\$ 20.94
Total Offering Amounts					\$ 4,785,986.38(2)		\$ 527.42
Total Fee Offsets							\$ (5)
Net Fee Due							\$ 527.42

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Class A common stock ("Common Stock") that become issuable under the Plans (as defined below) 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 the Registrant's outstanding common stock, as applicable.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act. The offering price per share and 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 January 17, 2023, a date within five business days prior to the date of filing this Registration Statement, for: (i) shares reserved for grant pursuant to the Helius Medical Technologies, Inc. 2022 Equity Incentive Plan (the "Equity Incentive Plan") and (ii) shares reserved for grant pursuant to the Helius Medical Technologies, Inc. 2021 Inducement Plan (the "Inducement Plan," and together with the Equity Incentive Plan, the "Plans").

- (3) Consists of shares that were automatically added to the shares authorized for issuance under the Equity Incentive Plan on January 1, 2023 pursuant to an “evergreen” provision contained in the Equity Incentive Plan. Pursuant to the Equity Incentive Plan, the share reserve will automatically increase on the first day of each fiscal year, beginning on January 1, 2023 and ending on (and including) January 1, 2027, with an amount equal to 20% of the fully diluted number of shares of Common Stock outstanding on December 31 of the fiscal year before the date of each automatic increase, 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.
 - (4) Consists of shares reserved for grant under the Inducement Plan pursuant to a First Amendment to the Inducement Plan that was approved by the Board on December 15, 2022.
 - (5) The Registrant does not have any fee offsets.
-