

ACELRX PHARMACEUTICALS INC  
Form S-8  
March 07, 2016

As filed with the Securities and Exchange Commission on March 7, 2016

Registration No. 333-

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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

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FORM S-8

REGISTRATION STATEMENT

*UNDER*

*THE SECURITIES ACT OF 1933*

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ACELRX PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

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	351 Galveston Drive	
Delaware	Redwood City, CA 94063	41-2193603
	(650) 216-3500	
(State or other jurisdiction of incorporation or organization) including zip code)	(Address of principal executive offices, including zip code)	(I.R.S. Employer Identification No.)

2011 Equity Incentive Plan

**2011 Employee Stock Purchase Plan**

**(Full titles of the plans)**

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**Howard B. Rosen**

**Interim Chief Executive Officer**

**AcelRx Pharmaceuticals, Inc.**

**351 Galveston Drive**

**Redwood City, CA 94063**

**(650) 216-3500**

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

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*Copies to:*

**Mark B. Weeks**

**Cooley LLP**

**3175 Hanover Street**

**Palo Alto, California 94304**

**(650) 843-5000**

**Facsimile: (650) 849-7400**

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Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large Accelerated filer

Accelerated filer

Non-accelerated filer

(Do not check if a smaller reporting company)

reporting  
company)

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**CALCULATION OF REGISTRATION FEE**

<b>Title of Securities to be Registered</b>	<b>Amount to be Registered(1)</b>	<b>Proposed Maximum Offering Price Per Share(2)</b>	<b>Proposed Maximum Aggregate Offering Price(2)</b>	<b>Amount of Registration Fee</b>
Common Stock, par value \$0.001 per share	2,714,859 shares	\$3.96	\$10,752,335	\$1,083

(1) 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 the Registrant's Common Stock that become issuable under the 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 the Registrant's

Common Stock.

Estimated  
solely for the  
purpose of  
calculating the  
amount of the  
registration fee  
pursuant to  
Rule 457(h) and  
Rule 457(c)  
promulgated  
under the  
Securities Act.  
The offering  
price per share  
(2) and the  
aggregate  
offering price  
are based upon  
the average of  
the high and  
low prices of  
the Registrant's  
Common Stock  
as reported on  
the NASDAQ  
Global Market  
on March 4,  
2016.

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## EXPLANATORY NOTE

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional (i) 1,809,906 shares of the common stock of AcelRx Pharmaceuticals, Inc. (the “Registrant”) to be issued pursuant to the Registrant’s 2011 Equity Incentive Plan and (ii) 904,953 shares of the Registrant’s common stock to be issued pursuant to the Registrant’s 2011 Employee Stock Purchase Plan.

## INCORPORATION BY REFERENCE OF CONTENTS OF REGISTRATION STATEMENT ON FORM S-8

The contents of the Registration Statements on Form S-8 (File Nos. 333-202709, 333-194634, 333-187206, 333-180334 and 333-172409) are incorporated by reference herein.

## EXHIBITS

<b>Exhibit Number</b>	<b>Description</b>
3.1	Amended and Restated Certificate of Incorporation of the Registrant. <sup>(1)</sup>
3.2	Amended and Restated Bylaws of the Registrant. <sup>(2)</sup>
4.1	Reference is made to Exhibits 3.1 and 3.2.
4.2	Specimen Common Stock Certificate of the Registrant. <sup>(3)</sup>
4.3	Second Amended and Restated Investor’s Rights Agreement, among the Registrant and certain of its security holders, dated as of November 23, 2009. <sup>(4)</sup>
4.4	Warrant to Purchase Common Stock of the Registrant, issued to Hercules Technology II, L.P., dated as of December 16, 2013. <sup>(5)</sup>
4.5	Warrant to Purchase Common Stock of the Registrant, issued to Hercules Technology Growth Capital, Inc., dated as of December 16, 2013. <sup>(6)</sup>
4.6	Form of Warrant issued to certain purchasers pursuant to the Securities Purchase Agreement dated May 29, 2012, between the Registrant and the purchasers identified therein. <sup>(7)</sup>

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- 4.7 Warrant Modification Agreement to Purchase Common Stock of the Registrant, issued to Hercules Technology II, L.P. dated as of September 17, 2015. <sup>(8)</sup>
- 4.8 Warrant Modification Agreement to Purchase Common Stock of the Registrant, issued to Hercules Technology Growth Capital, Inc. dated as of September 17, 2015. <sup>(9)</sup>
- 5.1 Opinion of Cooley LLP.
- 23.1 Consent of OUM & Co., LLP, Independent Registered Public Accounting Firm.
- 23.2 Consent of Ernst & Young, LLP, Independent Registered Public Accounting Firm.
- 23.3 Consent of Cooley LLP (included in Exhibit 5.1).
- 24.1 Power of Attorney. Reference is made to the signature page of this Form S-8.
- 99.1 2011 Equity Incentive Plan.<sup>(10)</sup>
- 99.2 Forms of Stock Option Grant Notice, Stock Option Exercise Notice and Stock Option Agreement under 2011 Equity Incentive Plan.<sup>(11)</sup>
- 99.3 Form of Restricted Stock Unit Award Agreement under 2011 Equity Incentive Plan.<sup>(12)</sup>
- 99.4 2011 Employee Stock Purchase Plan. <sup>(13)</sup>

Incorporated herein by reference to Exhibit 3.1 to the Registrant's Current Report on

(1) Form 8-K (File No. 001-35068), as filed with the Commission on February 18, 2011.

(2) Incorporated herein by reference to Exhibit 3.4 to the Registrant's Registration

Statement on  
Form S-1  
(File No.  
333-170594),  
as filed with  
the  
Commission  
on January 7,  
2011, as  
amended.

Incorporated  
herein by  
reference to  
Exhibit 4.2 to  
the  
Registrant's  
Registration  
Statement on

(3) Form S-1  
(File No.  
333-170594),  
as filed with  
the  
Commission  
on January  
31, 2011, as  
amended.

Incorporated  
herein by  
reference to  
Exhibit 4.3 to  
the  
Registrant's  
Registration  
Statement on

(4) Form S-1  
(File No.  
333-170594),  
as filed with  
the  
Commission  
on November  
12, 2010, as  
amended.



- Incorporated herein  
by reference to  
Exhibit 4.5 to the  
Registrant's Annual  
Report on Form  
(5) 10-K (File No.  
001-35068), as  
filed with the  
Commission on  
March 17, 2014.  
Incorporated herein  
by reference to  
Exhibit 4.6 to the  
Registrant's Annual  
Report on Form  
(6) 10-K (File No.  
001-35068), as  
filed with the  
Commission on  
March 17, 2014.  
Incorporated herein  
by reference to  
Exhibit 4.8 to the  
Registrant's Current  
Report on Form  
(7) 8-K (File No.  
001-35068), as  
filed with the  
Commission on  
May 30, 2012.  
Incorporated herein  
by reference to  
Exhibit 4.7 to the  
Registrant's  
Quarterly Report  
(8) on Form 10-Q (File  
No. 001-35068), as  
filed with the  
Commission on  
November 3, 2015.  
(9) Incorporated herein  
by reference to  
Exhibit 4.8 to the  
Registrant's  
Quarterly Report  
on Form 10-Q (File  
No. 001-35068), as  
filed with the

Commission on  
November 3, 2015.  
Incorporated herein  
by reference to  
Exhibit 99.3 to the  
Registrant's  
Registration

(10) Statement on Form  
S-8 (File  
No. 333-172409),  
as filed with the  
Commission on  
February 24, 2011.  
Incorporated herein  
by reference to  
Exhibit 10.5 to the  
Registrant's Annual  
Report on Form

(11) 10-K (File  
No. 001-35068), as  
filed with the  
Commission on  
March 30, 2011.  
Incorporated herein  
by reference to  
Exhibit 10.6 to the  
Registrant's Annual  
Report on Form

(12) 10-K (File  
No. 001-35068), as  
filed with the  
Commission on  
March 30, 2011.  
Incorporated herein  
by reference to  
Exhibit 99.6 to the  
Registrant's  
Registration

(13) Statement on Form  
S-8 (File  
No. 333-172409),  
as filed with the  
Commission on  
February 24, 2011.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Redwood City, State of California, on this 7th day of March, 2016.

### ACELRX PHARMACEUTICALS, INC.

By: /s/ HOWARD B. ROSEN  
Howard B. Rosen  
*Interim Chief Executive Officer*

## POWER OF ATTORNEY

**KNOW ALL PERSONS BY THESE PRESENTS**, that each person whose signature appears below constitutes and appoints **HOWARD B. ROSEN** and **TIMOTHY E. MORRIS**, jointly and severally, as his true and lawful attorneys-in-fact and agent, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement on Form S-8, 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 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 substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ HOWARD B. ROSEN HOWARD B. ROSEN	Interim Chief Executive Officer and Director <i>(Principal Executive Officer)</i>	March 7, 2016

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/s/ TIMOTHY E. MORRIS TIMOTHY E. MORRIS	Chief Financial Officer <i>(Principal Financial and Accounting Officer)</i>	March 7, 2016
/s/ ADRIAN ADAMS ADRIAN ADAMS	Chairman of the Board of Directors	March 7, 2016
/s/ PAMELA P. PALMER, M.D., PH.D. PAMELA P. PALMER, M.D., PH.D.	Director	March 7, 2016
/s/ MARK G. EDWARDS MARK G. EDWARDS	Director	March 7, 2016
/s/ STEPHEN J. HOFFMAN, PH.D., M.D. STEPHEN J. HOFFMAN, PH.D., M.D.	Director	March 7, 2016
/s/ RICHARD AFABLE, M.D. RICHARD AFABLE, M.D.	Director	March 7, 2016
/s/ MARK WAN MARK WAN	Director	March 7, 2016

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99.3 Form of Restricted Stock Unit Award Agreement under 2011 Equity Incentive Plan.<sup>(12)</sup>

99.4 2011 Employee Stock Purchase Plan.<sup>(13)</sup>

Incorporated  
herein by  
reference to  
Exhibit 3.1 to the  
Registrant's  
Current Report on  
(1) Form 8-K (File  
No. 001-35068),  
as filed with the  
Commission on  
February 18,  
2011.

Incorporated  
herein by  
reference to  
Exhibit 3.4 to the  
Registrant's  
Registration  
(2) Statement on  
Form S-1 (File  
No. 333-170594),  
as filed with the  
Commission on  
January 7, 2011,  
as amended.

Incorporated  
herein by  
reference to  
Exhibit 4.2 to the  
Registrant's  
Registration  
(3) Statement on  
Form S-1 (File  
No. 333-170594),  
as filed with the  
Commission on  
January 31, 2011,  
as amended.

(4) Incorporated  
herein by  
reference to  
Exhibit 4.3 to the  
Registrant's  
Registration  
Statement on  
Form S-1 (File

No. 333-170594),  
as filed with the  
Commission on  
November 12,  
2010, as amended.

Incorporated  
herein by  
reference to  
Exhibit 4.5 to the  
Registrant's

- (5) Annual Report on  
Form 10-K (File  
No. 001-35068),  
as filed with the  
Commission on  
March 17, 2014.

Incorporated  
herein by  
reference to  
Exhibit 4.6 to the  
Registrant's

- (6) Annual Report on  
Form 10-K (File  
No. 001-35068),  
as filed with the  
Commission on  
March 17, 2014.

Incorporated  
herein by  
reference to  
Exhibit 4.8 to the  
Registrant's

- (7) Current Report on  
Form 8-K (File  
No. 001-35068),  
as filed with the  
Commission on  
May 30, 2012.

Incorporated  
herein by  
reference to  
Exhibit 4.7 to the  
Registrant's  
Quarterly Report

- (8) on Form 10-Q  
(File  
No. 001-35068),  
as filed with the  
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November 3,  
2015.

- Incorporated  
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Exhibit 4.8 to the  
Registrant's  
Quarterly Report  
(9) on Form 10-Q  
(File  
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as filed with the  
Commission on  
November 3,  
2015.
- Incorporated  
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reference to  
Exhibit 99.3 to the  
Registrant's  
Registration  
(10) Statement on  
Form S-8 (File  
No. 333-172409),  
as filed with the  
Commission on  
February 24,  
2011.
- Incorporated  
herein by  
reference to  
Exhibit 10.5 to the  
Registrant's  
(11) Annual Report on  
Form 10-K (File  
No. 001-35068),  
as filed with the  
Commission on  
March 30, 2011.
- Incorporated  
herein by  
reference to  
Exhibit 10.6 to the  
Registrant's  
(12) Annual Report on  
Form 10-K (File  
No. 001-35068),  
as filed with the  
Commission on  
March 30, 2011.
- (13) Incorporated  
herein by  
reference to



Exhibit 99.6 to the  
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