

TherapeuticsMD, Inc.
Form 10-Q
August 07, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2013

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File No. 000-16731

THERAPEUTICSMD, INC.

(Exact Name of Registrant as Specified in Its Charter)

Nevada
(State or Other Jurisdiction of Incorporation
or Organization)

87-0233535
(I.R.S. Employer Identification No.)

6800 Broken Sound Parkway NW, Third
Floor, Boca Raton, FL 33487
(Address of Principal Executive Offices)

(561) 961-1900
(Issuer's Telephone Number)

951 Broken Sound Parkway NW, Suite 320, Boca Raton, FL 33487
(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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 (Check one):

Edgar Filing: TherapeuticsMD, Inc. - Form 10-Q

Large accelerated filer

Non-accelerated filer

(Do not check if a smaller reporting company)

Accelerated filer

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The number of shares outstanding of the Issuer's Common Stock as of August 7, 2013 was 131,212,706.

THERAPEUTICSMD, INC. AND SUBSIDIARIES
INDEX

	Page
PART I - FINANCIAL INFORMATION	
Item. 1	Financial Statements
	<u>Condensed Consolidated Balance Sheets as of June 30, 2013 (Unaudited) and December 31, 2012</u>
	3
	<u>Condensed Consolidated Statements of Operations for the Three and Six Months Ended June 30, 2013 (Unaudited) and 2012 (Unaudited)</u>
	4
	<u>Condensed Consolidated Statements of Cash Flows for the Six Months Ended June 30, 2013 (Unaudited) and 2012 (Unaudited)</u>
	5
	<u>Notes to Condensed Consolidated Financial Statements</u>
	6
<u>Item 2.</u>	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>
	21
<u>Item 3.</u>	<u>Quantitative and Qualitative Disclosures about Market Risk</u>
	30
<u>Item 4.</u>	<u>Controls and Procedures</u>
	30
PART II - OTHER INFORMATION	
<u>Item 1.</u>	<u>Legal Proceedings</u>
	31
<u>Item 1A.</u>	<u>Risk Factors</u>
	31
<u>Item 2.</u>	<u>Unregistered Sales of Equity Securities and Use of Proceeds</u>
	31
<u>Item 3.</u>	<u>Defaults upon Senior Securities</u>
	32
<u>Item 4.</u>	<u>Mine Safety Disclosures</u>
	32
<u>Item 5.</u>	<u>Other Information</u>
	32
<u>Item 6.</u>	<u>Exhibits</u>
	32

THERAPEUTICSMD, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS

	June 30, 2013 (Unaudited)	December 31, 2012
ASSETS		
Current Assets:		
Cash	\$34,435,468	\$1,553,474
Accounts receivable, net of allowance for doubtful accounts of \$100,385 and \$42,048, respectively	957,779	606,641
Inventory	1,506,059	1,615,210
Other current assets	3,607,283	751,938
Total current assets	40,506,589	4,527,263
Fixed assets, net	76,494	65,673
Other Assets:		
Prepaid expense	1,980,519	953,655
Intangible assets	345,238	239,555
Security deposit	156,949	31,949
Total other assets	2,482,706	1,225,159
Total assets	\$43,065,789	\$5,818,095

LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)

Current Liabilities:		
Accounts payable	\$2,045,116	\$1,641,366
Deferred revenue	1,219,072	1,144,752
Other current liabilities	1,334,730	725,870

Total current liabilities	4,598,918	3,511,988
---------------------------	-----------	-----------

Long-Term Liabilities:

Notes payable, net of debt discount of \$0 and \$1,102,680, respectively	—	3,589,167
--	---	-----------

Accrued interest	—	150,068
------------------	---	---------

Total long-term liabilities	—	3,739,235
-----------------------------	---	-----------

Total liabilities	4,598,918	7,251,223
-------------------	-----------	-----------

Commitments and Contingencies

Stockholders' Equity (Deficit):

Preferred stock - par value \$0.001; 10,000,000 shares authorized; no shares issued and outstanding	—	—
---	---	---

Common stock - par value \$0.001; 250,000,000 shares authorized; 131,212,706 and 99,784,982 issued and outstanding, respectively	131,213	99,785
--	---------	--------

Edgar Filing: TherapeuticsMD, Inc. - Form 10-Q

Additional
paid-in capital

102,834,270

50,580,400

The Company is, as a normal part of its business operations, a party to other legal proceedings in ad

Contingent Obligations Under Recourse Provisions:

In connection with customer leasing programs, the Company uses independent leasing companies fo

As of March 31, 2007, the total exposure for unpaid installment receivables approximates \$13,196,0

Third Party Debt Guarantee:

The Company has guaranteed the payment of certain third-party bank debt. The maximum potential

Product Warranties:

Estimated future warranty costs related to certain products are charged to operations in the period in

Generally, the Company's standard product warranties are for a one- to three-year period (based on

Product Warranties
Balance at June 30, 2006
Warranty accruals during the
Service costs incurred during
Balance at March 31, 2007
Deferred Service Revenues
Balance as of June 30, 2006
Revenues deferred during the
Amounts recorded as revenue
Balance at March 31, 2007

Product warranty amounts included in the table above include amounts associated with a product rec

The accruals for product warranties and deferred service revenues are classified with accrued expens

NOTE G STOCK OPTION AND PURCHASE PLANS

At March 31, 2007, the Company has two active employee stock option plans, the 2000 Stock Incent

The Respiroics, Inc. 2007 Employee Stock Purchase Plan (2007 Plan) was approved by the Com

Edgar Filing: TherapeuticsMD, Inc. - Form 10-Q

The 2000 Stock Incentive Plan provides for the issuance of up to 6,552,000 shares for grant to eligible

The Company adopted FASB Statement No. 123 (Revised 2004) Share-Based Payment (FASB No. 123(R))

FASB No. 123(R) also requires that excess tax benefits related to stock option exercises be reflected in earnings

The following table summarizes the Company's stock option information as of, and for the nine-month periods

Outstanding at June 30, 2006

Granted at fair value

Exercised

Cancelled

Outstanding at March 31, 2007

Exercisable at March 31, 2007

(1) The intrinsic value of a stock option is the difference between the market price of the underlying stock and the exercise price of the option. The exercise period for all stock options may not exceed ten years from the date of grant. Stock options with an exercise period exceeding ten years are classified as long-term debt.

The weighted-average grant date fair value of stock options granted during the nine-month periods ended

The fair value of each option grant was estimated on the date of grant using the Black-Scholes option

Weighted-average expected stock-price volatility

Weighted-average expected option life

Average risk-free interest rate

Average dividend yield

The average risk-free interest rate is based on the U.S. treasury security rate with a term to maturity of

NOTE H COMPREHENSIVE INCOME

The components of comprehensive income, net of tax, were as follows:

Net income

Foreign currency translation gains (losses)

Unrealized losses on marketable securities

Comprehensive income

NOTE I RESTRUCTURING AND ACQUISITION-RELATED EXPENSES

The Company incurred the following restructuring and acquisition-related expenses:

Galway, Ireland facility charges

Wallingford, Connecticut facility charges

Acquisition-related integration expenses and other costs

TOTAL

Galway, Ireland Manufacturing Facility On May 11, 2006, the Company announced that it would

The manufacturing activities previously conducted at the Galway facility were transferred to three of

Acquisition-Related Integration Expenses As more fully described in Note J to these consolidated

NOTE J ACQUISITIONS

OxyTec On April 21, 2006, the Company purchased 100% of the outstanding stock of OxyTec Medical, Inc.

Omni Therm On May 15, 2006, the Company purchased certain assets and liabilities of Omni Therapeutics, Inc.

Mayo On January 2, 2007, Respiroics acquired the home care assets of its Australian distributor, Mayo Medical Services Pty Ltd.

Other On October 6, 2005, Respiroics acquired an oxygen generation technology company. The acquisition was completed on October 10, 2005.

In July 2006, the Company acquired a controlling interest in an international distributor as well as certain assets and liabilities of the distributor.

NOTE K SALE OF INVESTMENT

On July 21, 2005, Centene Corporation (Centene) acquired AirLogix, Inc. (AirLogix) for approximately \$6,416,000.

In connection with the sale of AirLogix, the Company received total proceeds of \$6,416,000; \$5,488,000 of which was used to pay off debt.

NOTE L RECENT ACCOUNTING PRONOUNCEMENTS

In March 2006, the FASB issued Statement No. 156, Accounting for Servicing of Financial Assets

In July 2006, the FASB issued Interpretation No. 48, Accounting for Uncertainty in Income Taxes

In September 2006, the FASB issued Statement No. 157, Fair Value Measurements (FASB No. 1

In February 2007, the FASB issued Statement No. 159, The Fair Value Option for Financial Assets

NOTE M SUBSEQUENT EVENTS ACQUISITIONS

Emerson On April 3, 2007, Respironics acquired the operating assets of J.H. Emerson Company (I

Other On April 2, 2007, the Company also acquired a majority interest in an international distribu

CAUTIONARY STATEMENT FOR PURPOSES OF THE SAFE HARBOR PROVISIONS

The statements contained in this Quarterly Report on Form 10-Q, including those contained in Item 2

healthcare industry; the success of the Company's marketing, sales, and promotion programs; future

Item 2.
RESULTS OF OPERATIONS

Net sales

Cost of goods sold

General and administrative expenses (excluding acquisition earn-out expenses)

Acquisition earn-out expenses

Sales, marketing and commission expenses

Research and development expenses

Contribution to foundation

Restructuring and acquisition-related expenses

Other income

INCOME BEFORE INCOME TAXES

Income taxes

NET INCOME

Diluted earnings per share

Diluted shares outstanding

Net Sales Net sales for the three-month period ended March 31, 2007 were \$307,390,000, represent

Domestic Sleep and Home Respiratory Products

Domestic Hospital Products

International Products

Total

Net sales for the nine-month period ended March 31, 2007 were \$862,677,000, representing an 13%

Domestic Sleep and Home Respiratory Products

Domestic Hospital Products

International Products

Total

The Company's strategy is to broaden the scope of its business in the sleep and respiratory markets

Overall, acquired revenues and the impact of foreign currency exchange rate changes, in the aggregate

The Company's domestic Sleep and Home Respiratory revenue increases during the three-month and

Sales of domestic Hospital products during the three-month and nine-month periods ended March 31

The Company's international growth during the three-month and nine-month periods ended March 31

Gross Profit The Company's gross profit was 53% of net sales for the three-month and nine-month

to the new M Series platform of sleep therapy devices. During this transition the Company continued

General and Administrative Expenses (excluding acquisition earn-out expenses) General and administrative

Acquisition Earn-out Expenses During the three-month and nine-month periods ended March 31, 2007,

Sales, Marketing and Commission Expenses Sales, marketing and commission expenses were \$5,000,000

Research and Development Expenses Research and development expenses were \$16,793,000 (5% of sales)

Contribution to Foundation During the three-month and nine-month periods ended March 31, 2007, the

Restructuring and Acquisition-Related Expenses During the three-month and nine-month periods ended

Other Income Other income was \$3,104,000 for the three-month period ended March 31, 2007, compared to

Income Taxes The Company's effective income tax rate was approximately 24% for the three-month

Net Income As a result of the factors described above, the Company's net income was \$34,051,000

FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES

The Company had working capital of \$531,716,000 at March 31, 2007 and \$431,050,000 at June 30,

Net cash used by investing activities was \$112,370,000 and \$53,313,000 for the nine-month periods

Net cash provided by financing activities of \$27,302,000 during the nine-month period ended March

The Company believes that its sources of funding consisting of projected positive cash flow from op

with certain provisions allowing for further expansion of the credit facility), and its accumulated cash

CONTRACTUAL OBLIGATIONS AND OFF-BALANCE SHEET ARRANGEMENTS

The Company has contractual financial obligations and commercial financial commitments consisting of

In the current year, the Company made the final purchase payment, totaling \$6,798,000, to the former

On August 19, 2002 and as subsequently amended, the Company entered into a revolving credit agreement

The following table summarizes significant contractual obligations and commercial commitments of the

Contractual Obligations

Long-term debt

Capital lease obligations

Operating leases

Amounts payable to selling parties of previously acquired businesses

Total contractual obligations

Other Commercial Commitments

Letters of credit

Third party bank debt guarantee

The amounts reflected in the contractual obligations and commercial commitments table above include

The contractual obligations and commercial commitments table above does not reflect obligations under

favorable pricing. Since failure to purchase the minimum amounts under these agreements generally

In connection with customer leasing programs, the Company uses independent leasing companies for

As of March 31, 2007, the total exposure for unpaid installment receivables approximates \$13,196,0

The Company has guaranteed the payment of certain third-party bank debt. The maximum potential

CRITICAL ACCOUNTING POLICIES

The Company's consolidated financial statements are prepared in accordance with U.S. generally ac

Item 3.

The Company is exposed to market risk from changes in foreign currency exchange rates.

Foreign Currency Exchange Rates The Company's reporting currency is the U.S. Dollar, and a s

For the nine-month period ended March 31, 2007, sales denominated in currencies other than the U.S.

Interest Rates Interest rates have not had a significant effect on the Company's business during th

Inflation Inflation has not had a significant effect on the Company's business during the periods discussed.

Item 4.

The Chief Executive Officer and the Chief Financial Officer of the Company (its principal executive officers)

There has been no change in the Company's internal control over financial reporting during the three months ended

PART II OTHER INFORMATION

Item 1: Legal Proceedings.

On March 5, 2004, the Company filed a lawsuit against Invacare Corporation (Invacare) in the United States District Court for the District of Columbia.

Discovery has concluded, and by Order dated August 30, 2006, the Court decided certain issues regarding the Company's liability.

On August 6, 2004, Invacare filed a lawsuit against the Company in the United States District Court for the District of Columbia.

By Order dated October 23, 2006, the Court granted partial summary judgment in the Company's favor regarding its liability.

The Company is, as a normal part of its business operations, a party to other legal proceedings in addition to those described above.

Item 1A: Risk Factors.

There were no material changes in the Company's risk factors from the risks disclosed in the Company's most recent annual report.

Item 2: Unregistered Sales of Equity Securities and Use of Proceeds.

(a) Not applicable

(b) Not applicable

(c) Not applicable

Item 3: Defaults Upon Senior Securities.

(a) Not applicable

(b) Not applicable

Item 4: Submission of Matters to a Vote of Security Holders.

(a) Not applicable

(b) Not applicable

(c) Not applicable

(d) Not applicable
Item 5: Other Information.

(a) Not applicable

(b) Not applicable
Item 6: Exhibits.

Exhibit 15

Exhibit 31.1

Exhibit 31.2

Exhibit 32

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused

Date: May 10, 2007