
**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): February 1, 2017

OPEXA THERAPEUTICS, INC.

(Exact name of registrant as specified in its charter)

Texas
(State or other jurisdiction
of incorporation)

001-33004
(Commission File Number)

76-0333165
(IRS Employer Identification No.)

2635 Technology Forest Blvd., The Woodlands, Texas
(Address of principal executive offices)

77381
(Zip Code)

Registrant's telephone number, including area code: **(281) 272-9331**

N/A

(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))
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Item 1.02. Termination of a Material Definitive Agreement.

On February 1, 2017, Opexa Therapeutics, Inc. (the “Company”) entered into an Assignment and Assumption of Lease (the “Assignment”) with KBI Biopharma, Inc. (“KBI”), pursuant to which the Company assigned to KBI, and KBI assumed from the Company, all of the Company’s remaining rights and obligations under the lease for the Company’s 10,200 square foot corporate headquarters facility located in The Woodlands, Texas. The facility was originally leased by the Company from Dirk D. Laukien, as landlord, pursuant to a lease dated August 19, 2005, as amended by that certain First Amendment to Lease Agreement dated May 11, 2015 (as amended, the “Lease”). In light of the Company’s continuing evaluation of its strategic alternatives following the release of data from the Abili-T clinical study, management deemed it advisable to reduce the Company’s office, R&D and manufacturing space and corresponding rent obligations. The Lease had a remaining term through September 2020 and current monthly base rental payments of \$16,666.67, with payment escalations to \$17,500 over the remaining term.

Other material terms of the Lease are described in, and copies of the Lease documents are filed as exhibits to, the Company’s Annual Report on Form 10-KSB filed on March 31, 2006 and Form 10-Q filed on May 12, 2015, which are incorporated herein by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

In connection with the lease assignment described in Item 1.02 above, the Company also sold certain furniture, fixtures and equipment (including laboratory and manufacturing equipment) as well as its laboratory supplies located at its corporate headquarters to KBI for cash consideration in the amount of \$50,000.

Item 2.05 Costs Associated With Exit or Disposal Activities.

Reference is made to the disclosure in Items 1.02 and 2.01 above. As part of its continuing efforts to reduce operating expenses and conserve cash following the release of data from the Company’s Abili-T clinical trial, the Company further reduced its workforce by terminating the employment of seven full-time employees effective as of January 31, 2017. The Company estimates that it will incur incremental aggregate cash charges of approximately \$200,000 associated with this workforce reduction.

Item 2.06 Material Impairments.

Reference is made to the disclosure in Items 1.02 and 2.01 above. In connection with the above assignment of its corporate headquarters lease and sale of certain assets effective as of February 1, 2017, and based on the consideration received being less than the current carrying value of the assets, the Company expects to write-down the value of property and equipment from approximately \$600,000 to \$50,000. The Company expects to report the final impact of these impairment charges when it releases its audited financial statements for the fiscal year ended December 31, 2016.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Reference is made to the disclosure in Item 2.05 above. The employment of Don Healey, Ph.D., the Company's Chief Scientific Officer, was terminated as part of the further reduction-in-force. Pursuant to the terms of Dr. Healey employment agreement, he will be entitled to receive severance payments equal to six months of his base salary. The severance benefits are subject to Dr. Healey executing and delivering a general release and waiver of claims in favor of the Company, not being in breach of his employment agreement or the Company's proprietary information and inventions agreement, and not engaging in any activity which is competitive with the Company while receiving the severance benefits.

Item 8.01. Other Events.

The Company issued a press release on February 1, 2017 announcing the assignment of its facility lease and related matters, and a copy of such release is attached hereto as Exhibit 99.1 and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Assignment and Assumption of Lease, dated February 1, 2017, by and between Opexa Therapeutics, Inc. and KBI Biopharma, Inc.
99.1	Press release issued by Opexa Therapeutics, Inc. on February 1, 2017.

Cautionary Statement Relating to Forward-Looking Information for the Purpose of "Safe Harbor" Provisions of the Private Securities Litigation Reform Act of 1995

Statements contained in this report, other than statements of historical fact, constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. The words "expects," "believes," "may," "intends," "potential," "should," and similar expressions are intended to identify forward-looking statements. These forward-looking statements do not constitute guarantees of future performance. Investors are cautioned that forward-looking statements, including without limitation statements regarding the reduction-in-workforce and the anticipated future reduction in operating expenses and cash conservation benefits associated therewith, and the impairment charges expected to be incurred, constitute forward-looking statements. These forward-looking statements are based upon the Company's current expectations and involve assumptions that may never materialize or may prove to be incorrect. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of various risks and uncertainties, which include without limitation risks and uncertainties associated with possible changes in the magnitude of the planned workforce reduction and the timing of employee separations, including as a result of changes that may occur in the Company's operations or operating plan, or other reasons or events, possible changes in the amount of charges and cash payments associated with the workforce reduction and restructuring, including the possibility that the Company may incur unanticipated charges or make cash payments that are not currently contemplated, and the Company's ability to reduce its operating expenses and conserve cash on a net basis as a result of the workforce reduction and restructuring. These and other risks are described in detail in the Company's SEC filings, including its Annual Report on Form 10-K for the year ended December 31, 2015 and its Quarterly Report on Form 10-Q for the quarter ended September 30, 2016. All forward-looking statements contained in this report speak only as of the date on which they were first made by the Company, and the Company undertakes no obligation to update such statements to reflect events that occur or circumstances that exist after such date.

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, thereunto duly authorized.

Dated: February 1, 2017

OPEXA THERAPEUTICS, INC.

By: /s/ Neil K. Warma

Neil K. Warma

President, Chief Executive Officer and
Acting Chief Financial Officer

EXHIBIT INDEX

Exhibit No. Description

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ASSIGNMENT AND ASSUMPTION OF LEASE

This Assignment and Assumption of Lease (the “Assignment”), dated as of February 1, 2017 (the “Effective Date”), is by and between **OPEXA THERAPEUTICS, INC.** (“Assignor”), and **KBI BIOPHARMA, INC.** (“Assignee”). Assignor and Assignee are sometimes referred to herein as the “Parties” and individually as a “Party.”

WHEREAS, Dirk D. Laukien, as lessor (“Lessor”), and Assignor, as tenant, entered into that certain Lease dated August 19, 2005 (the “Original Lease”), as amended by that certain First Amendment to Lease Agreement dated April 2, 2015 (the “First Amendment”); the Original Lease and First Amendment are herein called the “Lease”), for that certain premises known as 2635 Technology Forest Drive, Suite 100, The Woodlands, Texas 77381 (the “Premises”).

WHEREAS, Assignor now desires to assign to Assignee, and Assignee now desires to accept and assume, all of Assignor’s right, title and interest under the Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. As of the Effective Date, Assignor hereby assigns, conveys, transfers and sets over unto Assignee all of such Assignor’s right, title and interest in, to and under the Lease.
 2. Assumption. From and after the Effective Date, Assignee hereby assumes and agrees to pay all sums, and perform, fulfill and comply with all covenants and obligations, which are to be paid, performed, fulfilled and complied with by tenant under the Lease.
 3. Assignee’s Indemnification of Assignor. Assignee shall and does hereby indemnify Assignor against, and agrees to hold Assignor harmless of and from, all liabilities, obligations, actions, suits, proceedings or claims, and all losses, costs and expenses, including but not limited to reasonable attorneys’ fees, arising as a result of any act, omission or obligation of Assignee arising or accruing with respect to the Lease and occurring or alleged to have occurred after the Effective Date.
 4. Assignor’s Indemnification of Assignee. Assignor shall and does hereby indemnify Assignee against, and agrees to hold Assignee harmless of and from, all liabilities, obligations, actions, suits, proceedings or claims, and all losses, costs and expenses, including but not limited to reasonable attorneys’ fees, arising as a result of any act, omission or obligation of Assignor arising or accruing with respect to the Lease and occurring or alleged to have occurred on or prior to the Effective Date.
 5. Entire Agreement. This Assignment represents the entire agreement of the Parties with regard to the subject matter contained herein and supersedes all prior agreements, written or oral, with regard to such matters.
 6. Authority. Each Party represents and warrants that it has the power and authority to execute, deliver and perform under this Assignment. This Assignment has been duly authorized, executed and delivered by each Party and is binding and enforceable against such Party in accordance with the terms and conditions contained herein.
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7. Counterparts. This Assignment may be executed in counterparts; all such counterparts shall constitute but one and the same agreement. To facilitate execution of this Assignment, the parties hereto may execute and exchange, by facsimile or electronic mail PDF, counterparts of the signature pages.

8. Governing Law. This Assignment shall be interpreted in accordance with the law of the State of Texas.

9. Binding Effect. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

10. Assignor Representations. Assignor represents and warrants to Assignee and Lessor as follows:

- (a) The Lease is in full force and effect and has not been modified, supplemented or amended in any way;
- (b) The Lease represents the entire agreement between Lessor and Assignor as to the leasing of the Premises and that there are no other agreements, written or oral, by Lessor and Assignor which affect the occupancy or use of any portion of the Premises; and
- (c) To Assignor's knowledge, there are no defaults by Lessor under the Lease and no event has occurred or condition exists that would, with the passage of time or with notice, or both, constitute a default by Lessor under the Lease.

[*Remainder of page blank; signature pages follow.*]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date set forth above.

ASSIGNOR :

OPEXA THERAPEUTICS, INC.,
fka PharmaFrontiers Corporation

By: /s/ Neil K. Warma
Name: Neil K. Warma
Title: President & CEO

ASSIGNEE :

KBI BIOPHARMA, INC.

By: /s/ Tim Kelly
Name: Tim Kelly
Title: President



Opexa Facility Becomes Foundation for Contract Manufacturing and Development Organization for Cellular Therapies

THE WOODLANDS, Texas (February 1, 2017) - Opexa Therapeutics, Inc. (NASDAQ: OPXA), a biopharmaceutical company with a strong history of cellular therapy drug development, today announced it had assigned its facility lease to KBI Biopharma, Inc., a global contract development and manufacturing company, thereby establishing a cellular therapy contract development and manufacturing organization (CDMO) in the Houston area. Opexa had leased the facility for over a decade to support GMP manufacturing for its proprietary cellular therapy platform. The assignment of Opexa's facility lease and the related assignment of a lease on a major piece of equipment to KBI should eliminate key liabilities for Opexa. The annual lease obligations on the facility, including property tax and insurance, totaled approximately \$1 million. In addition to assuming the remaining lease term for the facility and the piece of equipment, KBI paid Opexa a lump sum for Opexa's manufacturing and laboratory equipment. Resulting from this, the employment contract for Donald Healey, Ph.D., Opexa's Chief Scientific Officer, has been terminated as he becomes the Senior VP of Operations and Site Head for KBI. KBI intends to transition the facility into a world class manufacturing and development operation, providing contract services to biopharmaceutical companies developing cellular therapy products.

"I am pleased with this transaction for two strategic reasons," said Neil K. Warma, President and Chief Executive Officer of Opexa. "First, it enabled us to eliminate our two major liabilities for Opexa shareholders, as we continue to assess strategic opportunities. Opexa had almost four years left on a five-year building lease, plus over two years remaining on an equipment lease, so being able to exit from those two leases and the related future obligations was a priority for us. Second, with an esteemed group such as KBI assuming the leases and taking over the facility, we are pleased to see that Opexa's legacy in cellular therapy manufacturing will continue under such an experienced group with a solid history of success. Dr. Healey's expertise in managing the operations of the local facility should result in a smooth transition and provide a solid foundation from which KBI can build and offer services to cell therapy companies across the country."

For more information, visit the Opexa Therapeutics website at www.opexatherapeutics.com.

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Statements contained in this release, other than statements of historical fact, constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. The words "expects," "believes," "may," "intends," "potential" and similar expressions are intended to identify forward-looking statements. These forward-looking statements do not constitute guarantees of future performance. Investors are cautioned that forward-looking statements, including without limitation statements regarding Opexa's elimination of future lease liabilities and KBI's development of a cellular therapy contract development and manufacturing organization, constitute forward-looking statements. These forward-looking statements are based upon our current expectations and involve assumptions that may never materialize or may prove to be incorrect. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of various risks and uncertainties, which include without limitation our ability to raise additional capital to continue our development programs, our ability to successfully develop potential products, our ability to obtain, maintain and protect intellectual property rights, and our ability to realize the savings anticipated by the lease assignments and restructuring, as well as other risks associated with the process of discovering, developing and commercializing drug candidates that are safe and effective for use as human therapeutics. These and other risks are described in detail in our SEC filings, including our Annual Report on Form 10-K for the year ended December 31, 2015 and our Quarterly Report on Form 10-Q for the quarter ended September 30, 2016. All forward-looking statements contained in this release speak only as of the date on which they were first made by us, and we undertake no obligation to update such statements to reflect events that occur or circumstances that exist after such date.

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