

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

**FORM S-1
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

Agile Therapeutics, Inc.
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

2834
(Primary Standard Industrial
Classification Code Number)

23-2936302
(I.R.S. Employer
Identification Number)

500 College Road East, Suite 310
Princeton, New Jersey 08540
(609) 683-1880
(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Alfred Altomari
Chief Executive Officer
Agile Therapeutics, Inc.
500 College Road East, Suite 310
Princeton, New Jersey 08540
(609) 683-1880
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Steven M. Cohen
Bryan S. Keighery
Morgan, Lewis & Bockius LLP
502 Carnegie Center
Princeton, New Jersey 08540
(609) 919-6600

Robert F. Charron
Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
New York, New York 10105
(212) 370-1300

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. Registration No. 333-264960

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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 Accelerated filer
Non-accelerated filer Smaller reporting 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 7(a)(2)(B) of the Securities Act.

This registration statement shall become effective upon filing with the Securities and Exchange Commission in accordance with Rule 462(b) of the Securities Act of 1933, as amended.

EXPLANATORY NOTE AND INCORPORATION BY REFERENCE

Agile Therapeutics, Inc., a Delaware corporation (the “Company”), is filing this registration statement with the Securities and Exchange Commission pursuant to Rule 462(b) under the Securities Act of 1933, as amended. This registration statement relates to the public offering of securities contemplated by the registration statement on Form S-1, as amended ([File No. 333-264960](#)) (the “Prior Registration Statement”), which the Securities and Exchange Commission declared effective on July 1, 2022.

The Company is filing this registration statement for the sole purpose of registering the following additional securities of the Company: (i) shares of the Company’s common stock, par value \$0.0001 per share and accompanying Series A-1 warrants to purchase shares of common stock and accompanying Series A-2 warrants to purchase shares of common stock; (ii) the Company’s Series B pre-funded warrants to purchase shares of common stock and accompanying Series A-1 warrants and Series A-2 warrants; (iii) shares of common stock underlying Series B pre-funded warrants, Series A-1 warrants and Series A-2 warrants; (iv) placement agent warrants to purchase shares of common stock; and (v) shares of common stock underlying the placement agent warrants.

The proposed maximum aggregate offering price of the common stock and accompanying Series A-1 and Series A-2 warrants will be reduced on a dollar-for-dollar basis based on the offering price of any Series B pre-funded warrants and accompanying Series A-1 and Series A-2 warrants issued in the offering, and the proposed maximum aggregate offering price of the Series B pre-funded warrants and accompanying Series A-1 and Series A-2 warrants to be issued in the offering will be reduced on a dollar-for-dollar basis based on the offering price of any common stock and accompanying Series A-1 and Series A-2 warrants issued in the offering.

The additional securities that are being registered for sale have a proposed maximum offering price not to exceed \$12,250,000 and are in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Prior Registration Statement. The information set forth in the Prior Registration Statement, and all exhibits to the Prior Registration Statement, are hereby incorporated by reference into this registration statement.

The required opinions and consents are listed on the Exhibit Index attached hereto and are filed herewith.

EXHIBIT INDEX

Exhibit Number	Description
5.1	Opinion of Morgan, Lewis & Bockius LLP.
23.1	Consent of Independent Registered Public Accounting Firm.
23.2	Consent of Morgan, Lewis & Bockius LLP (included in Exhibit 5.1).
24.1	Power of Attorney (incorporated by reference to the signature page of the Prior Registration Statement on Form S-1 (File No. 333-264960) originally filed on May 13, 2022).
107	Filing Fee Table.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Princeton, State of New Jersey on July 1, 2022.

AGILE THERAPEUTICS, INC.

By: /s/ Alfred Altomari
Alfred Altomari
Chief Executive Officer

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.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Alfred Altomari</u> Alfred Altomari	Chief Executive Officer and Director (<i>Principal Executive Officer</i>)	July 1, 2022
*		
<u>Jason Butch</u>	Chief Accounting Officer (<i>Principal Financial Officer and Principal Accounting Officer</i>)	July 1, 2022
*		
<u>Sharon Barbari</u>	Director	July 1, 2022
*		
<u>Sandra Carson, M.D., FACOG</u>	Director	July 1, 2022
*		
<u>Seth H.Z. Fischer</u>	Director	July 1, 2022
*		
<u>John Hubbard, Ph.D.</u>	Director	July 1, 2022
*		
<u>Ajit S. Shetty, Ph.D.</u>	Director	July 1, 2022
*		
<u>Josephine Torrente</u>	Director	July 1, 2022
*		
<u>James Tursi, M.D.</u>	Director	July 1, 2022

*By: /s/ Alfred Altomari
Alfred Altomari
Attorney-In-Fact

Morgan Lewis

July 1, 2022

Agile Therapeutics, Inc.
500 College Road East, Suite 310
Princeton, NJ 08540

RE: Agile Therapeutics, Inc. Registration Statement on Form S-1

Ladies and Gentlemen:

This opinion is furnished to you in connection with the filing of a Registration Statement on Form S-1 (the "Registration Statement") filed by Agile Therapeutics, Inc., a Delaware corporation (the "Company"), with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act") pursuant to Rule 462(b) promulgated under the Securities Act with respect to the sale of up to \$4,000,000 of: (a) shares (the "Shares") of Common Stock, \$0.0001 par value per share, of the Company (the "Common Stock"); (b) Series A-1 warrants (the "Series A-1 Warrants") to purchase shares of Common Stock (the "Series A-1 Warrant Shares"); (c) Series A-2 warrants (the "Series A-2 Warrants"), and together with the Series A-1 Warrants, the "Series A Warrants") to purchase shares of Common Stock (the "Series A-2 Warrant Shares"), and together with the Series A-1 Warrant Shares, the "Series A Warrant Shares"); and (d) Series B pre-funded warrants (the "Series B Warrants") to purchase shares of Common Stock (the "Series B Warrant Shares") pursuant to the securities purchase agreement by and among the Company and the investors as identified therein (the "Securities Purchase Agreement"), and together with the Warrants, the "Transaction Documents"), The Company is also issuing warrants to H.C. Wainwright Co., LLC (the "Placement Agent Warrants" and, collectively with the Series A Warrants and the Series B Warrants, the "Warrants") to purchase up to \$250,000 of Common Stock (the "Placement Agent Warrant Shares" and, collectively with the Series A Warrant Shares and the Series B Warrant Shares, the "Warrant Shares"). The Registration Statement incorporates by reference the registration statement on Form S-1 (File No. 333-264960), which was declared effective by the Commission on July 1, 2022 (the "Prior Registration Statement"), including the prospectus which forms a part of the Prior Registration Statement (the "Prospectus"). The Shares, Warrants and Warrant Shares are referred to herein as the "Securities." This opinion letter is furnished to you at your request to enable you to fulfill the requirements of Item 601(b)(5) of Regulation S-K, 17 C.F.R. § 229.601(b)(5), in connection with the Registration Statement.

As counsel to the Company, in rendering the opinions hereinafter expressed, we have examined and relied upon originals or copies of such corporate records, agreements, documents and instruments as we have deemed necessary or advisable for purposes of this opinion, including (i) the amended and restated certificate of incorporation, as amended (the "Charter"), and amended and restated bylaws of the Company, (ii) the Registration Statement, the Prior Registration Statement and the exhibits thereto filed with the Commission, (iii) the Purchase Agreement, (iv) the forms of Series A Warrants, (v) the form of Series B Warrant, (vi) the form of Placement Agent Warrant (vii) copies of resolutions adopted by the Board of Directors of the Company at any meeting duly called and held or by written consent without a meeting, and (ix) copies of resolutions adopted by the stockholders of the Company at any meeting duly called and held.

We have assumed that any Warrants issued by the Company pursuant to the Registration Statement, the Prospectus and the Purchase Agreement will be issued under one or more valid, binding, and enforceable warrant or similar agreement and the certificates or agreements for the Warrants will be duly executed and delivered by the Company. We have further assumed that any Warrant Shares issued from time to time upon exercise of any of the Warrants will not exceed the maximum number of authorized and unissued shares of the Common Stock then available.

The enforcement of any obligations of the Company may be limited by bankruptcy, insolvency, reorganization, moratorium, marshaling or other laws and rules of law affecting the enforcement generally of creditors' rights and remedies, including, without limitation, fraudulent conveyance and fraudulent transfer laws.

Our opinions are subject to the effects of general principles of equity (whether considered in a proceeding at law or in equity), including but not limited to principles limiting the availability of specific performance or injunctive relief, and concepts of materiality and reasonableness, and the implied duty of good faith and fair dealing.

This opinion is limited solely to the Delaware General Corporation Law without regard to choice of law, to the extent that the same may apply to or govern the transactions contemplated by the Registration Statement. We express no opinion as to the effect of events occurring, circumstances arising, or changes of law becoming effective or occurring, after the date hereof on the matters addressed in this opinion.

Based on such examination and subject to the foregoing, we are of the opinion that:

(a) the Shares, when issued by the Company and delivered by the Company against payment therefor as contemplated by the Purchase Agreement, will be duly and validly issued, fully paid and non-assessable;

(b) the Warrants, when agreements therefor have been duly authorized, executed and delivered by the Company against the payment specified therefor, will be valid and binding obligations of the Company.

(c) following (i) execution and delivery by the Company of the Warrants pursuant to the terms of the Purchase Agreement, (ii) receipt by the Company of the consideration for the Warrants specified in the resolutions the Board of Directors, (iii) exercise of any of the Warrants pursuant to their terms, (iv) receipt by the Company of the exercise price for the applicable Warrant Shares as specified in the applicable Warrants so exercised, and (v) issuance of such Warrant Shares, such Warrant Shares will be validly issued, fully paid and non-assessable; and

We hereby consent to the reference to this firm therein and under the heading "Legal Matters" in the Prospectus included in the Registration Statement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Act, or the rules and regulations of the Commission thereunder. In rendering this opinion, we are opining only as to the specific legal issues expressly set forth herein, and no opinion shall be inferred as to any other matter or matters. This opinion is intended solely for use in connection with the issuance and sale of the Securities pursuant to the Registration Statement and is not to be relied upon for any other purpose.

Very truly yours,

/s/ MORGAN, LEWIS & BOCKIUS LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-1 MEF) filed pursuant to Rule 462(b) of the Securities Act of 1933 of the reference to our firm under the caption "Experts" and to the incorporation by reference of our report dated March 30, 2022, with respect to the financial statements of Agile Therapeutics, Inc. incorporated by reference in Amendment No. 1 to the Registration Statement (Form S-1 No. 333-264960) and related Prospectus of Agile Therapeutics, Inc. for the registration of its common stock, Series A-1 warrants, Series A-2 warrants and Series B pre-funded warrants.

/s/ Ernst & Young LLP

Iselin, New Jersey
July 1, 2022

Calculation of Filing Fee Tables

Form S-1
(Form Type)

Agile Therapeutics, Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities and Carry Forward Securities

	<u>Security type</u>	<u>Security class title</u>	<u>Fee calculation or carry forward rule</u>	<u>Amount registered</u>	<u>Proposed maximum offering price per unit</u>	<u>Maximum aggregate offering price(1)(2)</u>	<u>Fee rate</u>	<u>Amount of registration fee(1)</u>
Fees to Be Paid	Equity	Common Stock, par value \$0.0001 per share and accompanying Serie A-1 and Series A-2 warrants (3)	457(o)	-	- \$	4,000,000	0.0000927	\$ 370.80
Fees to Be Paid	Equity	Series B pre-funded warrants and accompanying Series A-1 warrants and Series A-2 warrants (3)(4)	457(o)	-	-	Included above	-	-
Fees to Be Paid	Equity	Shares of Common Stock, par value \$0.0001 per share (3)	457(o)	-	- \$	Included above	- \$	-
Fees to Be Paid	Equity	Shares of Common Stock issuable upon exercise of Series B pre-funded warrants(3)	457(o)	-	- \$	Included above	- \$	-
Fees to Be Paid	Equity	Series A-1 warrants(4)	457(g)	-	-	Included above	-	-
Fees to Be Paid	Equity	Series A-2 warrants(4)	457(g)	-	-	Included above	-	-
Fees to Be Paid	Equity	Shares of Common Stock issuable upon exercise of Series A-1 warrants	457(o)	-	- \$	4,000,000	0.0000927	\$ 370.80
Fees to Be Paid	Equity	Shares of Common Stock issuable upon exercise of Series A-2 warrants	457(o)	-	- \$	4,000,000	0.0000927	\$ 370.80
Fees to Be Paid	Equity	Placement agent warrants (4)(5)	457(g)	-	-	-	-	-
Feeds to Be Paid	Equity	Shares of Common Stock issuable upon exercise of Placement agent warrants(4)	457(o)	-	- \$	250,000	0.0000927	\$ 23.18
Total Offering Amounts						\$ 12,250,000	\$	1,135.58
Total Fees Previously Paid								—
Total Fee Offsets								—
Net Fee Due							\$	<u>1,135.58</u>

- (1) Estimated solely for the purpose of calculating the registration fee pursuant Rule 457(o) under the Securities Act of 1933, as amended (the “Securities Act”). The registrant previously registered securities with a proposed maximum aggregate offering price not to exceed \$61,250,000 on a registration statement on Form S-1, as amended (File No. 333-264960), which was declared effective by the Securities and Exchange Commission on July 1, 2022. In accordance with Rule 462(b) under the Securities Act, an additional amount of securities having a proposed maximum aggregate offering price of \$12,250,000 is hereby registered.
 - (2) Pursuant to Rule 416(a) under the Securities Act, this registration statement shall also cover an indeterminate number of shares that may be issued and resold resulting from stock splits, stock dividends or similar transactions.
 - (3) The proposed maximum aggregate offering price of the common stock and accompanying Series A-1 and Series A-2 warrants will be reduced on a dollar-for-dollar basis based on the offering price of any Series B pre-funded warrants and accompanying Series A-1 and Series A-2 warrants issued in the offering, and the proposed maximum aggregate offering price of the Series B pre-funded warrants and accompanying Series A-1 and Series A-2 warrants to be issued in the offering will be reduced on a dollar-for-dollar basis based on the offering price of any common stock and accompanying Series A-1 and Series A-2 warrants issued in the offering. Accordingly, the proposed maximum aggregate offering price of the common stock, Series B pre-funded warrants and accompanying Series A-1 and Series A-2 warrants (including the common stock issuable upon exercise of the Series B pre-funded warrants), if any, is \$4,000,000.
 - (4) No fee pursuant to Rule 457(g) of the Securities Act.
 - (5) Represents warrants issuable to H.C. Wainwright & Co., LLC, or its designees, to purchase a number of shares of common stock equal to 5.0% of the aggregate number of shares of common stock and shares of common stock issuable upon exercise of the Series B pre-funded warrants being offered at an exercise price equal to 125% of the combined public offering price per share of common stock and accompanying Series A-1 and Series A-2 warrants.
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