

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 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): March 26, 2021

Aquestive Therapeutics, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State or Other Jurisdiction
of Incorporation or Organization)

001-38599
(Commission
File Number)

82-3827296
(I.R.S. Employer
Identification No.)

30 Technology Drive
Warren, NJ 07059
(908) 941-1900

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Not Applicable
(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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (Sec. 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (Sec. 240.12b-2 of this chapter).

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	AQST	Nasdaq Global Market

Emerging growth 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 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.*Amended to Equity Distribution Agreement*

On September 11, 2019, Aquestive Therapeutics, Inc. (the “Company”) entered into an Equity Distribution Agreement with Piper Sandler & Co. (the “Equity Distribution Agreement”), pursuant to which the Company could offer and sell shares of its common stock, from time to time, having an aggregate offering price of up to \$25.0 million, in an “at-the-market” offering. On March 26, 2021, the Company entered into Amendment No. 1 to the Equity Distribution Agreement (the “EDA Amendment”), to permit the offering of an unlimited amount of shares of common stock of the Company thereunder, subject to the terms and conditions set forth in the Equity Distribution Agreement. The Company has filed a prospectus supplement to offer up to an additional \$50.0 million of shares of common stock pursuant to the EDA Amendment.

The foregoing description of the EDA Amendment is qualified in its entirety by reference to the EDA Amendment, a copy of which is filed as Exhibit 10.1 to this Form 8-K and is incorporated herein by reference. A copy of the opinion of Dechert LLP regarding the validity of the shares of common stock of the Company to be issued pursuant to the Equity Distribution Agreement, as amended by the EDA Amendment, is attached hereto as Exhibit 5.1 and is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
5.1	Opinion of Dechert LLP
10.1	Amendment No. 1 to the Equity Distribution Agreement, dated March 26, 2021, by and between Aquestive Therapeutics, Inc. and Piper Sandler & Co.
23.1	Consent of Dechert LLP (included in Exhibit 5.1)

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: March 26, 2021

Aquestive Therapeutics, Inc.

By: /s/ A. Ernest Toth, Jr.

Name: A. Ernest Toth, Jr.

Title: Interim Chief Financial Officer



1095 Avenue of the Americas
New York, NY 10036-6797
+1 212 698 3500 Main
+1 212 698 3599 Fax
www.dechert.com

March 26, 2021

Aquestive Therapeutics, Inc.
30 Technology Drive
Warren, New Jersey 07059

Re: Prospectus Supplement and Prospectus to Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Aquestive Therapeutics, Inc., a Delaware corporation (the "Company"), in connection with the sale from time to time of shares of the Company's common stock, par value \$0.001 per share, having an aggregate offering price of up to \$57,281,383 (the "Offered Shares"), pursuant to the Registration Statement on Form S-3 (File No. 333-233716) (together with the prospectuses included therein and the information deemed to be part thereof at the time of effectiveness, the "Registration Statement") filed by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Act"), and declared effective by the Commission on September 17, 2019, the related prospectus filed with the Commission on September 17, 2019 (the "Prospectus"), and the related prospectus supplements for the offering of the Offered Shares (together, the "Prospectus Supplement"), filed March 12, 2020 and today with the U.S. Securities and Exchange Commission.

The Offered Shares are to be sold by the Company pursuant to the equity distribution agreement, dated September 11, 2019, by and between the Company and Piper Jaffray & Co. (n/k/a Piper Sandler & Co.), as amended to date (the "Equity Distribution Agreement").

This opinion letter is being furnished to the Company in accordance with the requirements of Item 601(b)(5) under Regulation S-K of the Securities Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement, other than as to the validity of the Offered Shares as set forth below.

In rendering the opinion expressed below, we have examined and relied on originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for rendering the opinion set forth below, including the following documents:

- (i) the Registration Statement;
- (ii) the Prospectus Supplement;
- (iii) the Company's Amended and Restated Certificate of Incorporation, as originally filed with the Secretary of State of the State of Delaware on July 27, 2018;
- (iv) the Company's Amended and Restated Bylaws, effective as of July 24, 2018;
- (v) a Certificate of Good Standing with respect to the Company issued by the Secretary of State of the State of Delaware, as of a recent date;

- (vi) the Equity Distribution Agreement; and
- (vii) the resolutions of the board of directors of the Company, relating to, among other things, (a) the authorization and approval of the preparation and filing of the Registration Statement, the Prospectus and the Prospectus Supplement and (b) the authorization to enter into and amend the Equity Distribution Agreement.

As to the facts upon which this opinion is based, we have relied, to the extent we deem proper, upon certificates of public officials and certificates and written statements of agents, officers, directors, employees and representatives of, and accountants for, the Company and we have assumed in this regard the truthfulness of such certifications and statements. We have not independently established the facts so relied on.

In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as original documents, the conformity to original documents of all documents submitted to us as copies, the legal capacity of natural persons who are signatories to the documents examined by us and the legal power and authority of all persons signing on behalf of the parties to all documents (other than the Company). We have further assumed that there has been no oral modification of, or amendment or supplement (including any express or implied waiver, however arising) to, any of the agreements, documents or instruments used by us to form the basis of the opinion expressed below.

On the basis of the foregoing and subject to the assumptions, qualifications and limitations set forth in this letter, we are of the opinion, as of the date hereof, that the Offered Shares have been duly authorized for issuance by the Company and, when the Offered Shares have been (i) duly issued and sold in accordance with the Registration Statement and the Prospectus Supplement and (ii) delivered to the purchaser or purchasers thereof against receipt by the Company of such lawful consideration therefor in accordance with the terms of the Equity Distribution Agreement and at a price per share not less than the per share par value of the Company's common stock, the Offered Shares will be validly issued, fully paid and non-assessable.

The opinion expressed herein is limited to the General Corporation Law of the State of Delaware. We are members of the bar of the State of New York. We express no opinion concerning the laws of any other jurisdiction, and we express no opinion concerning any state securities or "blue sky" laws, rules or regulations, or any federal, state, local or foreign laws, rules or regulations relating to the offer and/or sale of the Offered Shares. The opinions expressed herein are based upon the law as in effect and the documentation and facts known to us on the date hereof.

This opinion letter has been prepared for your use solely in connection with the Prospectus Supplement relating to the offering and sale of the Offered Shares. We assume no obligation to advise you of any changes in the foregoing after the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Company's current report on Form 8-K and to the use of our name in the Prospectus Supplement under the caption "Legal Matters." In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act and the rules and regulations of the Commission thereunder.

Very truly yours,
/s/ Dechert LLP

AMENDMENT NO. 1 TO THE EQUITY DISTRIBUTION AGREEMENT

March 26, 2021

PIPER SANDLER & CO.

U.S. Bancorp Center

Minneapolis, Minnesota 55402 Ladies and Gentlemen:

This Amendment No. 1 to the Equity Distribution Agreement (this “**Amendment**”) is entered into as of the date first written above by Aquestive Therapeutics, Inc., a Delaware Corporation (the “**Company**”), and Piper Sandler & Co. (f/k/a Piper Jaffray & Co., the “**Agent**”), that are parties to that certain Equity Distribution Agreement, dated September 11, 2019 (the “**Original Agreement**”). All capitalized terms not defined herein shall have the meanings ascribed to them in the Original Agreement. The parties, intending to be legally bound, hereby amend the Original Agreement as follows:

1. The preamble to the Original Agreement is hereby deleted in its entirety and replaced with the following:

As further set forth in this agreement (this “**Agreement**”), Aquestive Therapeutics, Inc., a company organized under the laws of Delaware (the “**Company**”), proposes to issue and sell from time to time through Piper Sandler & Co. (the “**Agent**”), as sales agent, shares of the Company’s common stock, par value \$0.001 per share (the “**Common Stock**”) (such shares of Common Stock to be sold pursuant to this Agreement, the “**Shares**”) on terms set forth herein. Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitation set forth in Section 2 of this Agreement on the number of Shares issued and sold under this Agreement shall be the sole responsibility of the Company, and the Agent shall have no obligation in connection with such compliance.

2. Pursuant to Section 3(g) of the Agreement, the Company shall reimburse the Agent for the out of pocket reasonable and documented fees and disbursements of the Agent’s counsel actually incurred in connection with the execution of this Amendment in an amount not to exceed \$50,000.

3. The Company represents and warrants to, and agrees with the Agent that this Amendment has been duly authorized, executed and delivered by, and is a valid and binding agreement of, the Company.

4. This Amendment, together with the Original Agreement (including all schedules and exhibits attached hereto and thereto and Placement Notices issued pursuant hereto and thereto), constitutes the entire agreement and supersedes all other prior and contemporaneous agreements and undertakings, both written and oral, among the parties hereto with regard to the subject matter hereof. Neither this Amendment nor any term hereof may be amended except pursuant to a written instrument executed by the Company and the Agent. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable as written by a court of competent jurisdiction, then such provision shall be given full force and effect to the fullest possible extent that it is valid, legal and enforceable, and the remainder of the terms and provisions herein shall be construed as if such invalid, illegal or unenforceable term or provision was not contained herein, but only to the extent that giving effect to such provision and the remainder of the terms and provisions hereof shall be in accordance with the intent of the parties as reflected in this Amendment. All references in the Original Agreement to the “**Agreement**” shall mean the Original Agreement as amended by this Amendment; provided, however, that all references to “**date of this Agreement**” in the Original Agreement shall continue to refer to the date of the Original Agreement.

5. This Amendment shall be governed by and construed in accordance with the laws of the State of New York. THE COMPANY (ON ITS OWN BEHALF AND ON BEHALF OF ITS STOCKHOLDERS AND AFFILIATES) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. Each party hereby submits to the exclusive jurisdiction of the U.S. federal and New York state courts sitting in the Borough of Manhattan, City of New York, in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any lawsuit, action or other proceeding in such courts, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such lawsuit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

6. This Amendment may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, and may be delivered by e-mail in the form of a portable document format (PDF) file (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com).

[Remainder of Page Intentionally Blank]

If the foregoing correctly sets forth the understanding between the Company and the Agent, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding amendment to the Original Agreement between the Company and the Agent.

Very truly yours,

PIPER SANDLER & CO.

By: /s/ Neil Riley
Name: Neil Riley
Title: Managing Director

**ACCEPTED as of the date
first-above written:**

AQUESTIVE THERAPEUTICS, INC.

By: /s/ A. Ernest Toth Jr.
Name: A. Ernest Toth Jr.
Title: Interim Chief Financial Officer

[Signature Page to Amendment No. 1 to Equity Distribution Agreement]
