

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

FORM S-8
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

JOURNEY MEDICAL CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

9237 E Via de Ventura Blvd., Suite 105
Scottsdale, AZ
(Address of Principal Executive Offices)

47-1879539
(I.R.S. Employer
Identification No.)

85258
(Zip Code)

Journey Medical Corporation 2023 Employee Stock Purchase Plan
(Full title of the plan)

Claude Maraoui
9237 E Via de Ventura Blvd., Suite 105
Scottsdale, AZ 85258
480-434-6670
(Name, address, and telephone number of agent for service)

Copy to:
Rakesh Gopalan
David S. Wolpa
McGuireWoods LLP
201 North Tryon Street, Suite 3000
Charlotte, North Carolina 28202
(704) 373-2275

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a 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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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.

EXPLANATORY NOTE

This Registration Statement is being filed by Journey Medical Corporation (the "Company") with the U.S. Securities and Exchange Commission (the "Commission") for the purpose of registering the offer and sale of 300,000 shares of the Company's common stock, \$0.0001 par value per share (the "Common Stock") that are issuable pursuant to the Company's 2023 Employee Stock Purchase Plan, as amended (the "Plan"). The Plan was adopted by the Company's board of directors and approved by the Company's stockholders on June 21, 2023.

PART I
INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

Item 1. Plan Information.

Not required to be filed with this registration statement.

Item 2. Registrant Information and Employee Plan Annual Information.

Not required to be filed with this registration statement.

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

References in this registration statement to “we,” “us,” “our,” and the “Company,” or similar references, refer to Journey Medical Corporation, unless otherwise stated or the context otherwise requires.

Item 3. Incorporation of Documents by Reference.

The following documents, which have been filed by Journey Medical Corporation (the “Company”), with the U.S. Securities and Exchange Commission (the “Commission”) pursuant to the Securities Exchange Act of 1934, as amended (the “Exchange Act”), are incorporated by reference in, and shall be deemed to be a part of, this registration statement:

- (a) [the Company’s Annual Report on Form 10-K for the year ended December 31, 2022, filed with the Commission on March 31, 2023](#)
- (b) the Company’s Quarterly Reports on Form 10-Q for the periods ended [March 31, 2023, filed with the Commission on May 22, 2023](#), [June 30, 2023, filed with the Commission on August 10, 2023](#), and [September 30, 2023, filed with the Commission on November 13, 2023](#);
- (c) the Company’s Current Reports on Form 8-K filed with the Commission on [January 3, 2023](#), [January 20, 2023](#), [May 22, 2023](#), [June 23, 2023](#), [July 26, 2023](#), [August 18, 2023](#), [September 6, 2023](#), [September 19, 2023](#), [September 26, 2023](#) and [December 8, 2023](#);
- (d) the information specifically incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2022 from our [Definitive Proxy Statement on Schedule 14A, filed with the SEC on April 28, 2023](#);
- (e) the description of the Company’s shares of common stock in the Company’s registration statement on [Form 8-A](#) (File No. 001-41063) filed with the Commission on November 12, 2021, under Section 12(b) of the Exchange Act, including any amendments or reports filed for the purpose of updating such description.

All reports and other documents filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date hereof and prior to the filing of a post-effective amendment which indicates that all securities offered pursuant to this registration statement have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents or reports.

For purposes of this registration statement, any document or any statement contained in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded to the extent that a subsequently filed document or a statement contained therein, or in any other subsequently filed document which also is or is deemed to be incorporated by reference, modifies or supersedes such document or such statement in such document. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this registration statement.

Under no circumstances shall any information furnished under Item 2.02 or 7.01 of Form 8-K be deemed incorporated herein by reference unless such Form 8-K expressly provides to the contrary.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145(a) of the Delaware General Corporation Law (“DGCL”) provides, in general, that a Delaware corporation may indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) because that person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or other enterprise. The indemnity may include expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, so long as the person acted in good faith and in a manner he or she reasonably believed was in or not opposed to the corporation’s best interests, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Section 145(b) of the DGCL provides, in general, that a Delaware corporation may indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or suit by or in the right of the corporation to obtain a judgment in its favor because the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or other enterprise. The indemnity may include expenses (including attorneys’ fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action, so long as the person acted in good faith and in a manner the person reasonably believed was in or not opposed to the corporation’s best interests, except that no indemnification shall be permitted without judicial approval if a court has determined that the person is to be liable to the corporation with respect to such claim. Section 145(c) of the DGCL provides that, if a present or former director or officer has been successful in defense of any action referred to in Sections 145(a) and (b) of the DGCL, the corporation must indemnify such officer or director against the expenses (including attorneys’ fees) he or she actually and reasonably incurred in connection with such action.

Section 145(g) of the DGCL provides, in general, that a corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or other enterprise against any liability asserted against and incurred by such person, in any such capacity, or arising out of his or her status as such, whether or not the corporation could indemnify the person against such liability under Section 145 of the DGCL.

Our certificate of incorporation and our bylaws provide for the indemnification of our directors and officers to the fullest extent permitted under the DGCL.

We also maintain a directors’ and officers’ insurance policy pursuant to which our directors and officers are insured against liability for actions taken in their capacities as directors and officers.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following documents are filed as exhibits to this registration statement:

Exhibit Number	Description of Exhibit
4.1	Form of Common Stock Certificate, filed as Exhibit 4.1 to Form S-1, filed on October 22, 2021 and incorporated herein by reference.
4.2	Description of Securities of Journey Medical Corporation, filed as Exhibit 4.2 to Form 10-K, filed on March 28, 2022 and incorporated herein by reference.
5.1*	Opinion of McGuireWoods LLP.
23.1*	Consent of KPMG LLP.
23.2*	Consent of McGuireWoods LLP (included in Exhibit 5.1).
24.1*	Powers of Attorney (included on the signature page of this registration statement).
99.1	Journey Medical Corporation 2023 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on June 23, 2023).
107*	Filing Fee Table

* Filed herewith.

Item 9. Undertakings.

(a) The undersigned Company hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
- (ii) To reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Filing Fees Table" in the effective registration statement;
- (iii) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if this registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by or furnished to the Commission by the Company pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Company hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Company's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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 Scottsdale, State of Arizona, on December 15, 2023.

JOURNEY MEDICAL CORPORATION

By: /s/ Claude Maraoui
Name: Claude Maraoui
Title: Chief Executive Officer, President and Director

POWERS OF ATTORNEY

Each person whose signature appears below constitutes and appoints Claude Maraoui and Joseph Benesch, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all said attorney-in-fact and agent, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed below by the following persons in the capacities held on the dates indicated.

<u>Signature</u>	<u>Capacity</u>	<u>Date</u>
<u>/s/ Claude Maraoui</u> Claude Maraoui	Chief Executive Officer, President and Director (Principal Executive Officer)	December 15, 2023
<u>/s/ Lindsay A. Rosenwald, M.D.</u> Lindsay A. Rosenwald, M.D.	Executive Chairman	December 15, 2023
<u>/s/ Joseph Benesch</u> Joseph Benesch	Interim Chief Financial Officer (Principal Financial and Accounting Officer)	December 15, 2023
<u>/s/ Neil Herskowitz</u> Neil Herskowitz	Director	December 15, 2023
<u>/s/ Jeff Paley, M.D.</u> Jeff Paley, M.D.	Director	December 15, 2023
<u>/s/ Justin Smith</u> Justin Smith	Director	December 15, 2023
<u>/s/ Miranda Toledano</u> Miranda Toledano	Director	December 15, 2023



McGuireWoods LLP
 201 North Tryon Street
 Suite 3000
 Charlotte, NC 28202-2146

December 15, 2023

Journey Medical Corporation
 9237 E Via de Ventura Blvd., Suite 105
 Scottsdale, AZ 85258

**RE: Registration Statement on Form S-8
 300,000 Shares of Common Stock of Journey Medical Corporation to be issued pursuant to the Journey Medical Corporation 2023 Employee Stock Purchase Plan**

Ladies and Gentlemen:

We have acted as counsel to Journey Medical Corporation, a Delaware corporation (the "Company"), in connection with the Company's Registration Statement on Form S-8 (the "Registration Statement") that is being filed on the date hereof with the Securities and Exchange Commission ("SEC"), pursuant to the Securities Act of 1933, as amended (the "Securities Act"), relating to the registration of the issuance of 300,000 shares (the "Shares") of the Company's common stock, par value \$0.0001 per share (the "Common Stock"), from time to time pursuant to the Journey Medical Corporation 2023 Employee Stock Purchase Plan, as amended (the "Plan"). This opinion letter is being furnished in accordance with the requirements of Item 8 of Form S-8 and Item 601(b)(5)(i) of Regulation S-K promulgated under the Securities Act.

In connection with this opinion letter, we have examined the Registration Statement, including the exhibits being filed therewith or incorporated by reference therein. In addition, we have examined and relied upon the following:

- (i) a certificate from an officer of the Company certifying as to (A) true and correct copies of the Third Amended and Restated Certificate of Incorporation of the Company and Amended and Restated Bylaws of the Company, each as in effect the date hereof and as amended to date, (B) the resolutions of the Board of Directors of the Company with respect to the Shares and the Registration Statement, and (C) the proposal adopted by the stockholders of the Company relating to the Plan at the Company's 2023 Annual Meeting of Stockholders;
- (ii) a certificate dated December 13, 2023 issued by the Secretary of State of the State of Delaware, attesting to the corporate status of the Company in the State of Delaware; and

McGuireWoods LLP | www.mcguirewoods.com
 Atlanta | Austin | Baltimore | Charlotte | Charlottesville | Chicago | Dallas | Houston | Jacksonville | London | Los Angeles - Century City
 Los Angeles - Downtown | New York | Norfolk | Pittsburgh | Raleigh | Richmond | San Francisco | Tysons | Washington, D.C.

Journey Medical Corporation
 December 15, 2023
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- (iii) originals, or copies identified to our satisfaction as being true copies, of such other records, documents and instruments as we have deemed necessary for the purposes of this opinion letter.

For all purposes of the opinions expressed herein, we have assumed, without independent investigation, the following: (a) to the extent that we have reviewed and relied upon certificates of the Company or authorized representatives thereof and certificates and assurances from public officials, all of such certificates and assurances are accurate with regard to factual matters; (b) all documents submitted to us as originals are authentic, complete and accurate, and all documents submitted to us as copies conform to authentic original documents; (c) the genuineness of all signatures; and (d) the Registration Statement will be effective under the Securities Act.

Based on and subject to the foregoing and the exclusions, qualifications, limitations and other assumptions set forth in this opinion letter, we are of the opinion that the Shares have been duly authorized, and, when issued in accordance with the terms and upon the terms and conditions of the Plan upon receipt of the Company of adequate consideration for the Shares specified therein, will be validly issued, fully paid and non-assessable.

The foregoing opinion is limited to the Delaware General Corporation Law (including statutory provisions, all applicable provisions of the Delaware Constitution and reported judicial decisions interpreting the foregoing), as in effect on the date hereof, and we do not express any opinion concerning any other law.

The foregoing opinion is being furnished only for the purpose referred to in the first paragraph of this opinion letter. We hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the Securities Act or the rules and regulations of the SEC promulgated thereunder.

Very truly yours,

/s/ McGuireWoods LLP



Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 30, 2023, with respect to the consolidated financial statements of Journey Medical Corporation, incorporated herein by reference.

/s/ KPMG LLP

Short Hills, New Jersey
December 15, 2023

Calculation of Filing Fee Tables

Form S-8

(Form Type)

Journey Medical Corporation

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

Security Type	Security Class Title	Fee Calculation Rule ⁽¹⁾	Amount Registered ⁽²⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Newly Registered Securities							
Equity	Common Stock, par value \$0.0001 per share	Other	300,000	\$ 6.18	\$ 1,854,000	0.00014760	\$ 273.65
Total Offering Amounts					<u>\$ 1,854,000</u>		<u>\$ 273.65</u>
Total Fee Offsets							
Net Fee Due							<u>\$ 273.65</u>

(1) Pursuant to Rules 457(c) and 457(h) under the Securities Act, and solely for the purpose of calculating the registration fee, the proposed maximum offering price per share is the average of the high and low prices reported for the registrant's Common Stock quoted on The Nasdaq Capital Market on December 11, 2023, which date is within five business days prior to the filing of this Registration Statement.

(2) Represents 300,000 shares of the Common Stock reserved for issuance pursuant to future awards under the Journey Medical Corporation 2023 Employee Stock Purchase Plan (the "Plan"). Pursuant to Rule 416(a) under the Securities Act of 1933, as amended, this registration statement also covers an indeterminate number of additional shares as may be necessary to account for adjustment provisions under the Plan as a result of stock splits, stock dividends and similar transactions.