

BioScrip, Inc.
Form 8-K
May 29, 2015

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): May 28, 2015

BIOSCRIP, INC.

(Exact name of Registrant as specified in its charter)

| | | |
|--------------------------|--------------------------|---|
| Delaware | 000-28740 | 05-0489664 |
| (State of Incorporation) | (Commission File Number) | (I.R.S. Employer Identification No.) |

| | |
|--|------------|
| 100 Clearbrook Road, Elmsford, New York | 10523 |
| (Address of principal executive offices) | (Zip Code) |

Registrant's telephone number, including area code: (914) 460-1600

N/A

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(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))

Section 7 – Regulation FD

Item 7.01. Regulation FD Disclosure.

On May 28, 2015, BioScrip, Inc. (“BioScrip” or the “Company”) furnished this Current Report on Form 8-K to provide public disclosure that a derivative complaint was filed in the Delaware Court of Chancery on May 7, 2015, by the Park Employees’ & Retirement Board Employees’ Annuity & Benefit Fund of Chicago, C.A. No. 11000 (the “Complaint”). The Complaint names as defendants certain current and former directors (the “Director Defendants”), certain current and former officers (the “Officer Defendants”), certain entities affiliated with Kohlberg & Co., L.L.C., and Jefferies LLC. The Company is also named as a nominal defendant in the action.

The Complaint alleges generally that certain defendants breached their fiduciary duties with respect to the Company’s public disclosures, oversight of Company operations, secondary stock offerings and stock sales. The Complaint also contends that certain defendants aided and abetted those alleged breaches. The damages sought are not quantified but include, among other things, claims for money damages, restitution, disgorgement, equitable relief, reasonable attorneys’ fees, costs and expenses, and interest.

The Company, Director Defendants and the Officer Defendants deny any allegations of wrongdoing in this lawsuit. The Company and such persons believe all of the claims in this lawsuit are without merit and intend to vigorously defend against these claims. However, there is no assurance that the defense will be successful or that insurance will be available or adequate to fund any settlement or judgment or the litigation costs of this action. The action may also implicate indemnification agreements between the Company and certain of the defendants, which may not be covered by any relevant insurance policies. Additional similar lawsuits may be filed. Moreover, we are unable to predict the outcome or reasonably estimate a range of possible loss at this time. While no assurance can be given as to the ultimate outcome of this matter, we believe that the final resolution of this action is not likely to have a material adverse effect on our results of operations, financial position, liquidity or capital resources.

As provided in General Instruction B.2 to Form 8-K, the information furnished in this Item 7.01 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities under that Section and shall not be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly provided by specific reference in such filing.

Forward-Looking Statements - Safe Harbor

This Current Report on Form 8-K includes statements that may constitute “forward-looking statements” conveying management’s expectations as to the future based on current plans, estimates and projections. These statements are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. You can identify these statements by the fact that they do not relate strictly to historical or current facts. In some cases, forward-looking statements can be identified by words such as “may,” “should,” “could,” “anticipate,” “estimate,” “expect,” “project,” “intend,” “believe,” “predict,” “potential,” “continue” or comparable terms. Investors are cautioned that any such forward-looking statements are not guarantees of future performance and, because such statements inherently involve risks and uncertainties, including how a court adjudicates the Complaint, actual results may differ materially from those in the forward-looking statements as a result of various factors. Investors are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof.

Important factors that could cause or contribute to such differences include but are not limited to risks associated with the uncertainty of the outcome of the lawsuit, as well as the other risks described above and in the Company’s periodic filings with the Securities and Exchange Commission. The Company does not undertake any duty to update these forward-looking statements after the date hereof even though the Company’s situation may change in the future, except as required by law. All of the forward-looking statements herein are qualified by these cautionary statements.

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 hereunto duly authorized.

BIOSCRIP, INC.

Date: May 28, 2015 /s/ Kimberlee C. Seah

By: Kimberlee C. Seah

Senior Vice President and General Counsel