
**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): March 22, 2022

BIOCEPT, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

001-36284
(Commission
File Number)

80-0943522
(I.R.S. Employer
Identification No.)

9955 Mesa Rim Road, San Diego, CA
(Address of principal executive offices)

92121
(Zip Code)

Registrant's telephone number, including area code: (858) 320-8200

(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))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	BIOC	The Nasdaq Stock Market LLC

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

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 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

(a)

On March 22, 2022, the Board of Directors (the “Board”) of Biocept, Inc. (the “Company”) approved an amendment (the “Bylaws Amendment”) to the Amended and Restated Bylaws of the Company, as amended (the “Bylaws”), effective immediately. The Bylaws Amendment amended Section 5 of Article II of the Bylaws to reduce the quorum requirement for all meetings of the stockholders of the Company from a majority of the voting capital stock issued and outstanding and entitled to vote to one third of the voting capital stock issued and outstanding and entitled to vote.

The foregoing description of the Bylaws Amendment is qualified in its entirety by reference to the full text of the Bylaws Amendment, a copy of which is filed with this report as Exhibit 3.1.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
3.1	<u>Second Amendment to Amended and Restated Bylaws of the Company.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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.

Biocept, Inc.

Date: March 24, 2022

By: /s/ Samuel D. Riccitelli

Samuel D. Riccitelli

Interim President and Chief Executive Officer

**SECOND AMENDMENT TO
AMENDED AND RESTATED BYLAWS
OF BIOCEPT, INC.**

The Amended and Restated Bylaws, as amended (the “**Bylaws**”), of Biocept, Inc., a Delaware corporation (the “**Company**”), are hereby amended as follows, effective as of March 22, 2022.

1. Section 5 of Article II of the Bylaws is hereby amended and restated in its entirety to read as follows:

“**Section 5. Quorum; Adjournment.** Except as otherwise required by law, or provided by the Certificate or these Bylaws, the holders of one third (1/3) of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. A quorum, once established, shall not be broken by the withdrawal of enough votes to leave less than a quorum and the votes present may continue to transact business until adjournment. If, however, such quorum shall not be present or represented at any meeting of the stockholders, either the stockholders entitled to vote thereat, present in person or represented by proxy, or the Chairman of the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting of the time and place of the adjourned meeting, and the means of remote communication, if any, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote at the meeting.”

2. Except as specifically amended herein, the Bylaws shall remain unchanged and in full force and effect.

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BIOCEPT, INC.
CERTIFICATE OF ADOPTION OF SECOND AMENDMENT TO
AMENDED AND RESTATED BYLAWS

The undersigned hereby certifies that he is the duly elected, qualified, and acting Secretary of Biocept, Inc., a Delaware corporation, and that the foregoing Second Amendment to the Amended and Restated Bylaws constitutes the entire amendment to the Amended and Restated Bylaws, as amended, as duly adopted by the Board of Directors on March 22, 2022.

Executed on March 23, 2022.

/s/ Antonino Morales

Antonino Morales

Interim Chief Financial Officer and Secretary