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

**POST-EFFECTIVE AMENDMENT NO. 1
TO
FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

VAXART, 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)	59-1212264 (I.R.S. Employer Identification No.)
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**290 Utah Ave
Suite 200
South San Francisco, California 94080
(650) 550-3500**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Wouter W. Latour M.D.
President and Chief Executive Officer
290 Utah Ave
Suite 200
South San Francisco, California 94080
(650) 550-3500**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

**John T. McKenna
Josh Seidenfeld
Cooley LLP
3175 Hanover Street
Palo Alto, California 94304
(650) 843-5000**

**Gary Emmanuel
Heidi Steele
McDermott Will & Emery LLP
340 Madison Avenue
New York, New York 10173
(212) 547-5400**

**Approximate date of commencement of proposed sale to 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, as amended, 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:

If this Form is a post-effective amendment filed pursuant to Rule 462(c) 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:

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: (File No. 333-233717)

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

Accelerated filer

Non-accelerated filer

Smaller reporting company
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 7(a)(2)(B) of the Securities Act of 1933, as amended.

This post-effective amendment shall become effective upon filing with the Securities and Exchange Commission in accordance with Rule 462(d) under the Securities Act of 1933, as amended.

Explanatory Note

This Post-Effective Amendment No. 1 (this "Amendment") relates to the Registrant's Registration Statement on Form S-1 (File No. 333-233717), as amended, declared effective on September 26, 2019 by the Securities and Exchange Commission. The Registrant is filing this Amendment for the sole purpose of replacing Exhibit 5.1 to the Registration Statement. This Amendment does not modify any provision of Part I or Part II of the Registration Statement other than Item 16(a) of Part II as set forth below.

PART II—INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) Exhibits.

Exhibit Number	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit	File Date
1.1	Underwriting Agreement	S-1	333-233717	1.1	September 24, 2019
2.1	Agreement and Plan of Merger and Reorganization, dated October 27, 2017, by and among Aviragen Therapeutics, Inc., Vaxart, Inc. and Agora Merger Sub, Inc.	8-K	001-35285	2.1	October 30, 2017
2.2	Amendment No. 1, dated as of February 7, 2018, to the Agreement and Plan of Merger and Reorganization, dated October 27, 2017, by and among Aviragen Therapeutics, Inc., Vaxart, Inc. and Agora Merger Sub, Inc.	8-K	001-35285	2.1	February 7, 2018
3.1	Restated Certificate of Incorporation of Aviragen Therapeutics, Inc.	10-K	001-35285	3.1	September 13, 2016
3.2	Certificate of Amendment to Restated Certificate of Incorporation of Aviragen Therapeutics, Inc.	8-K	001-35285	3.1	February 20, 2018
3.3	Certificate of Amendment to Restated Certificate of Incorporation of Vaxart, Inc.	8-K	001-35285	3.2	February 20, 2018
3.4	Certificate of Amendment to Restated Certificate of Incorporation of Vaxart, Inc.	8-K	001-35285	3.1	April 24, 2019
3.5	Restated By-laws of Aviragen Therapeutics, Inc.	10-K	001-35285	3.2	September 13, 2016
4.1	Reference is made to Exhibits 3.1 to 3.5 .				
4.2	Specimen Common Stock Certificate	S-3	333-228910	4.2	December 20, 2018
4.3	Form of Pre-Funded Warrant	S-1	333-233717	4.3	September 11, 2019
4.4	Form of Common Warrant	S-1	333-233717	4.4	September 11, 2019
4.5	Form of Representative Warrant	S-1	333-233717	4.5	September 24, 2019

Exhibit Number	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit	File Date
5.1	Opinion of Cooley LLP				
10.1+	Collaboration and License Agreement dated September 29, 2003, between Biota Holdings Limited and Sankyo Co., Ltd.	10-Q	001-35285	10.5	May 10, 2013
10.2+	Amendment #1 to Collaboration and License Agreement dated June 30, 2005, between Biota Holdings Limited, Biota Scientific Management Pty. Ltd. and Sankyo Company, Ltd.	10-Q	001-35285	10.6	May 10, 2013
10.3	Amendment #2 to Collaboration and License Agreement, dated March 27, 2009, between Biota Holdings Limited, Biota Scientific Management Pty. Ltd. and Daiichi Sankyo Company, Limited	10-Q	001-35285	10.7	May 10, 2013
10.4+	Commercialization Agreement dated March 27, 2009, between Biota Holdings Limited, Biota Scientific Management Pty. Ltd and Daiichi Sankyo Company, Ltd.	10-Q	001-35285	10.8	May 10, 2013
10.5+	Contract dated March 31, 2011, between Biota Scientific Management Pty. Ltd. and Office of Biomedical Advanced Research and Development Authority within the Office of the Assistant Secretary for preparedness and Response at the U.S. Department of Health and Human Services	10-Q	001-35285	10.9	May 10, 2013
10.6	Research and License Agreement dated February 21, 1990, by and among Biota Scientific Management Pty. Ltd., Biota Holdings Limited, Glaxo Australia Pty. Ltd. and Glaxo Group Limited	10-K	001-35285	10.6	September 27, 2013
10.7#	2007 Omnibus Equity and Incentive Plan (included as Appendix A to the proxy statement)	DEF 14A	000-04829	—	April 12, 2007

Exhibit Number	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit	File Date
10.8#	Form of Employee Stock Option Agreement under the 2007 Omnibus Equity and Incentive Plan	8-K	001-35285	10.1	December 10, 2013
10.9+	Royalty Interest Acquisition Agreement by and between Aviragen Therapeutics, Inc., Biota Holdings Pty Ltd, Biota Scientific Management Pty. Ltd. and HealthCare Royalty Partners III, L.P. dated April 22, 2016	8-K	001-35285	10.1	April 26, 2016
10.10	Protective Rights Agreement between Aviragen Therapeutics, Inc. and HealthCare Royalty Partners III, L.P. dated April 22, 2016	8-K	001-35285	10.2	April 26, 2016
10.11#	Form of Employee Stock Option Agreement under the 2016 Equity Incentive Plan	10-Q	001-35285	10.1	May 8, 2017
10.12#	2016 Equity Incentive Plan (included as Appendix A to the proxy statement)	DEF 14A	001-35285	—	September 27, 2016
10.13#	Director Stock Option Agreement	S-4	333-222009	10.22	December 12, 2017
10.14	Form of Indemnification Agreement by and between Vaxart, Inc. and its Directors and Executive Officers	8-K	001-35285	10.3	February 20, 2018
10.15#	Vaxart, Inc. Amended and Restated 2007 Equity Incentive Plan, Stock Option Agreement, form of Notice of Stock Option Grant, form of Additional Terms and Conditions to Option and Stock Option Exercise Agreement	S-4/A	333-222009	10.24	December 29, 2017
10.16#	Offer Letter, dated May 25, 2011, and Amendment to Offer Letter and Option Grant Agreement, dated October 1, 2011, by and between Vaxart, Inc. and Wouter W. Latour, M.D.	S-4/A	333-222009	10.25	December 29, 2017
10.17	Industrial Lease dated October 28, 2013, by and between Vaxart, Inc. and Oyster Point LLC	S-4/A	333-222009	10.26	December 29, 2017

Exhibit Number	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit	File Date
10.18	Lease Agreement dated April 17, 2015, by and between Vaxart, Inc. and CRP Edgewater, LLC	S-4/A	333-222009	10.27	December 29, 2017
10.19	Loan and Security Agreement dated December 22, 2016, by and between Vaxart, Inc. and Oxford Finance LLC	S-4/A	333-222009	10.28	December 29, 2017
10.20	Second Amendment to the Loan Agreement, dated February 13, 2018, between Vaxart, Inc. and Oxford Finance LLC	8-K	001-35285	10.1	February 20, 2018
10.21#	Severance Benefit Plan and Form of Severance Benefit Plan Participation Notice	8-K	001-35285	10.1	June 6, 2018
10.22	Settlement Agreement by and among Vaxart, Inc., Digirad Corporation, East Hill Management Company, LLC, and Aviragen Therapeutics, Inc.	8-K	001-35285	10.1	February 9, 2018
10.23	Form of Sales Agreement dated December 19, 2018 by and between Vaxart, Inc. and B. Riley FBR, Inc.	S-3	333-228910	1.2	December 20, 2018
10.24	Amended and Restated Warrant issued to Oxford Finance LLC, dated February 13, 2018	8-K	001-35285	10.2	February 20, 2018
10.25	Form of Securities Purchase Agreement dated as of March 19, 2019, by and among Vaxart, Inc. and the Purchasers named therein	8-K	001-35285	10.1	March 20, 2019
10.26	Form of Placement Agent Warrant	8-K	001-35285	10.3	March 20, 2019
10.27#	2019 Equity Incentive Plan	8-K	001-35285	10.1	April 24, 2019
10.28#	Form of Stock Option Grant Notice, Stock Option Agreement and Notice of Exercise under the 2019 Equity Incentive Plan	8-K	001-35285	10.2	April 24, 2019
10.29#	Form of Restricted Stock Unit Grant Notice and Restricted Stock Unit Award Agreement and Notice of Exercise under the 2019 Equity Incentive Plan	8-K	001-35285	10.3	April 24, 2019

Exhibit Number	Description	Incorporated by Reference			
		Schedule/Form	File Number	Exhibit	File Date
10.30+	Manufacturing Services Agreement dated July 17, 2019, by and between Vaxart, Inc. and Lonza Houston, Inc.	S-1	333-233717	10.30	September 24, 2019
10.31	First Amendment to Lease Agreement, dated September 17, 2019, by and between Vaxart, Inc. and HCP, Inc.	8-K	001-35285	10.1	September 19, 2019
16.1	Letter dated February 16, 2018 from Ernst & Young LLP to the Securities and Exchange Commission	8-K	001-35285	16.1	February 20, 2018
21.1	List of Subsidiaries	10-K	001-35285	21.1	February 6, 2019
23.1	Consent of KPMG LLP, Independent Registered Public Accounting Firm	S-1	333-233717	23.1	September 20, 2019
23.2	Consent of Cooley LLP is contained in Exhibit 5.1 to this Registration Statement				
24.1	Power of Attorney (see the signature page to the initial filing of this registration statement on Form S-1)	S-1	333-233717	—	September 11, 2019

Management contract or compensation plan or arrangement.

+ Portions of this exhibit (indicated by asterisks) have been omitted as the Registrant has determined that (i) the omitted information is not material and (ii) the omitted information would likely cause competitive harm to the Registrant if publicly disclosed.

(b) *Financial Statement Schedules.*

Financial statement schedules have been omitted, as the information required to be set forth therein is included in the Consolidated Financial Statements or Notes thereto appearing in the prospectus made part of this registration statement.

QuickLinks

[Explanatory Note](#)

[PART II—INFORMATION NOT REQUIRED IN PROSPECTUS](#)

[ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES](#)

[SIGNATURES](#)



John T. McKenna
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September 27, 2019

Vaxart, Inc.
290 Utah Ave
Suite 200
South San Francisco, CA 94080

Ladies and Gentlemen:

We have acted as counsel to Vaxart, Inc., a Delaware corporation, (the "**Company**"), in connection with the filing of a registration statement (No. 333-233717) on Form S-1 (the "**Registration Statement**") with the Securities and Exchange Commission, including a related prospectus filed with the Registration Statement (the "**Prospectus**"), covering an underwritten public offering of:

- (i) an aggregate of 26,566,667 shares (the "**Shares**") of common stock of the Company, par value \$0.10 per share (the "**Common Stock**");
- (ii) pre-funded warrants to purchase up to an aggregate of 4,100,000 shares of Common Stock (the "**Pre-Funded Warrants**") and the shares of Common Stock issuable upon exercise thereunder; and
- (iii) warrants to purchase up to 30,666,667 shares of Common Stock (the "**Common Warrants**") and the shares of Common Stock issuable upon exercise thereunder;

including additional Shares and Common Warrants that may be sold pursuant to the exercise of an option to purchase additional Shares and/or Common Warrants. The Registration Statement also covers the issuance of warrants to purchase up to 2,146,667 shares of Common Stock being issued to the underwriters of the offering (the "**Representative Warrants**") and the shares of Common Stock issuable upon exercise thereunder. The Pre-Funded Warrants, the Common Warrants, and the Representative Warrants are collectively referred to herein as the "**Warrants**" and the shares of Common Stock issuable upon exercise of the Warrants are referred to as the "**Warrants Shares**." The Shares, the Warrants and the Warrant Shares are to be issued by the Company as described in the Registration Statement and the Prospectus.

In connection with this opinion, we have examined and relied upon the Registration Statement and Prospectus, the form of Pre-Funded Warrant, the form of Common Warrant, the form of Representative Warrant, the Company's Certificate of Incorporation, as amended, its Restated Bylaws and the originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness and authenticity of all documents submitted to us as originals, and the conformity to originals of all documents submitted to us as copies thereof and the due execution and delivery of all documents by all persons other than the Company where due execution and delivery are a prerequisite to the effectiveness thereof. In addition, we have assumed that the Board of Directors of the Company or a pricing committee thereof has taken action to set the sale price of the Shares and Warrants and the exercise price of the Warrants.

With regard to our opinion regarding the Warrants and the Warrant Shares, we express no opinion to the extent that, notwithstanding its current reservation of shares of Common Stock, future issuances of securities, including the Warrant Shares, of the Company and/or antidilution adjustments to outstanding

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Vaxart, Inc.
September 27, 2019
Page Two

securities, including the Warrants, of the Company cause the Warrants to be exercisable for more shares of Common Stock than the number that then remain authorized but unissued.

With regard to our opinion concerning the Warrants constituting valid and binding obligations of the Company:

(i) Our opinion is subject to, and may be limited by, (a) applicable bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance, debtor and creditor, and similar laws which relate to or affect creditors' rights generally, and (b) general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing) regardless of whether considered in a proceeding in equity or at law.

(ii) Our opinion is subject to the qualification that the availability of specific performance, an injunction or other equitable remedies is subject to the discretion of the court before which the request is brought.

(iii) We express no opinion as to any provision of the Warrants that: (a) provides for liquidated damages, buy-in damages, monetary penalties, prepayment or make-whole payments or other economic remedies to the extent such provisions may constitute unlawful penalties, (b) relates to advance waivers of claims, defenses, rights granted by law, or notice, opportunity for hearing, evidentiary requirements, statutes of limitations, trial by jury, or procedural rights, (c) restricts non-written modifications and waivers, (d) provides for the payment of legal and other professional fees where such payment is contrary to law or public policy, (e) relates to exclusivity, election or accumulation of rights or remedies, (f) authorizes or validates conclusive or discretionary determinations, or (g) provides that provisions of the Warrants are severable to the extent an essential part of the agreed exchange is determined to be invalid and unenforceable.

(iv) We express no opinion as to whether a state court outside of the State of New York or a federal court of the United States would give effect to the choice of New York law or jurisdiction provided for in the Warrants.

Our opinion herein is expressed solely with respect to the General Corporation Law of the State of Delaware and, as to the Warrants constituting valid and legally binding obligations of the Company, the laws of the State of New York. Our opinion is based on these laws as in effect on the date hereof. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that (i) the Shares, when sold in accordance with the Registration Statement and the Prospectus, will be validly issued, fully paid and nonassessable, (ii) provided that the Warrants have been duly executed and delivered by the Company to the purchasers thereof against payment therefor, the Warrants, when issued and sold as provided in the Registration Statement and the Prospectus will be valid and legally binding obligations of the Company, and (iii) the Warrant Shares, when issued and paid for in accordance with the terms of the Warrants, will be validly issued, fully paid and non-assessable.



Vaxart, Inc.
September 27, 2019
Page Three

We consent to the reference to our firm under the caption "Legal Matters" in the Prospectus included in the Registration Statement and to the filing of this opinion as an exhibit to the Registration Statement. This opinion is expressed as of the date hereof, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable law.

Sincerely,

Cooley LLP

By: /s/ John T. McKenna
John T. McKenna
