
**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): **September 29, 2020**

Supernus Pharmaceuticals, Inc.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	001-35518 (Commission File Number)	20-2590184 (I.R.S. Employer Identification No.)
9715 Key West Ave (Address of Principal Executive Offices)	Rockville MD	20850 (Zip Code)

Registrant's telephone number, including area code: **(301) 838-2500**

Not Applicable

(Former name or former address, if changed since last report.)

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock, \$0.001 par value per share	SUPN	The Nasdaq Global Market

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 (see General Instruction A.2. below):

- 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 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

(b) On September 29, 2020, Gregory S. Patrick, Senior Vice-President and Chief Financial Officer, notified Supernus Pharmaceuticals, Inc. (“Supernus” or the “Company”) of his retirement from the Company effective on or about November 20, 2020. In order to ensure an efficient transition to a new Chief Financial Officer, Mr. Patrick will continue to serve in his current role through his retirement date.

(c) On September 30, 2020, Supernus Pharmaceuticals, Inc. (the “Company”) appointed James P. Kelly to the position of Executive Vice-President and Chief Financial Officer. Mr. Kelly will join the Company on October 12, 2020.

Mr. Kelly has over 25 years of biopharmaceutical industry experience in finance roles of increasing scope and responsibility. Most recently, Mr. Kelly served as Executive Vice-President, Chief Financial Officer and Treasurer of Vanda Pharmaceuticals Inc., a publicly traded pharmaceutical company, from February 2017 through March 2020. Mr. Kelly previously served as Senior Vice-President, Chief Financial Officer and Treasurer of Vanda Pharmaceuticals from December 2010 through February 2017, and its Secretary from December 2010 to September 2015 and again from April 2018 to August 2018. From March 2006 through December 2010, Mr. Kelly was at MedImmune, a biotechnology subsidiary of AstraZeneca Group, first as Director of Sales and Marketing Finance and then as Vice-President and Controller. From June 2000 through December 2005, Mr. Kelly was at Biogen Idec serving in research and development finance roles of increasing responsibility, most recently as the Director of Planning and Operations. From June 1997 to June 2000, Mr. Kelly was a member of the corporate finance team at Aetna Inc., which team was responsible for mergers and acquisitions and treasury management. Mr. Kelly began his career in life sciences in 1991 with Janssen Pharmaceutica, a division of Johnson & Johnson. Mr. Kelly received his Bachelor of Science degree in Business Administration from the University of Vermont and his Master of Business Administration in Finance from Cornell University and is a Chartered Financial Analyst.

Mr. Kelly will receive an annual base salary of \$460,000. In addition, Mr. Kelly will be eligible to participate in the Company’s bonus plan pursuant to which he will be eligible for an annual target bonus of up to 45% of his annual salary, prorated for the first year of service, contingent upon his and the Company’s performance. Mr. Kelly will receive an award of 135,000 options to purchase common stock that will vest over four years in accordance with the terms of the Company’s 2012 Equity Incentive Plan. Mr. Kelly will be eligible to participate in employee benefit plans, such as medical, dental, vision, group life insurance, disability insurance and the Company’s 401(k) Plan on the same basis as other Company employees.

The Company and Mr. Kelly have entered into an Executive Retention Agreement (the “Retention Agreement”) to be effective October 12, 2020, which provides severance payments and other benefits in the event of a change in control of the Company. Under the Retention Agreement, upon termination of employment by the Company prior to a change in control without cause (as defined in the Retention Agreement) or by Mr. Kelly with good reason (as defined in the Retention Agreement), Mr. Kelly will be entitled to receive his base salary and health benefits for a period of 12 months following the termination date, on the condition that he completes 90 days of service from and including the effective date of the Retention Agreement. In the event of termination of employment by the Company on the date of, or within 12 months after a change in control, without cause or by Mr. Kelly for good reason, Mr. Kelly will be entitled to receive his base salary and health benefits for a period of 12 months following the termination date, a lump-sum payment equal to his most recent annual bonus, and stock-based compensation arrangements will be fully vested and nonforfeitable on the date of such termination and will continue to be exercisable and payable in accordance with the terms that apply under such arrangements other than any vesting requirements. Amounts payable under the Retention Agreement are subject to the Company’s clawback policy. The foregoing description of the terms of the Retention Agreement is only a summary, do not purport to be complete and is qualified in its entirety by reference to the Retention Agreement filed herewith.

Item 8.01 Other Events.

On October 5, 2020, the Company issued a press release announcing the retirement of Gregory S. Patrick as Senior Vice-President and Chief Financial Officer of the Company and the appointment of James P. Kelly as Executive Vice-President and Chief Financial Officer of the Company. A copy of this press release is furnished as Exhibit 99.1 hereto and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit 10.1[†] — [Offer Letter to James P. Kelly](#)

Exhibit 10.2[†] — [Executive Retention Agreement, dated October 12, 2020, by and between the Company and James P. Kelly.](#)

The following document is furnished as an Exhibit pursuant to Item 2.02 hereof:

Exhibit 99.1 — [Press Release Dated October 5, 2020.](#)

Exhibit 104 — The cover page from this Current Report on Form 8-K, formatted in Inline XBRL.

[†] Certain portions of this exhibit that constitute confidential information have been omitted in accordance with Regulation S-K, Item 601(b)(10)(iv) because it (i) is not material and (ii) would be competitively harmful if publicly disclosed.

⁺ Indicates a management contract or compensatory plan, contract or arrangement in which an officer participates.

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.

SUPERNUS PHARMACEUTICALS, INC.

DATED: October 5, 2020

By: /s/ Jack A. Khattar

Jack A. Khattar
President and Chief Executive Officer

CERTAIN CONFIDENTIAL INFORMATION IDENTIFIED IN THIS DOCUMENT, MARKED BY [**], HAS BEEN EXCLUDED FROM THE EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.



Supernus Pharmaceuticals, Inc.

9715 Key West Avenue
Rockville, MD 20850
Tel (301) 838-2500
Fax (301) [**]

September 30, 2020

James P. Kelly, CFA

[**]

[**]

Dear Jim,

On behalf of Supernus Pharmaceuticals, Inc. ("the Company"), I am pleased to offer you the position of Executive Vice President & Chief Financial Officer reporting to Jack A. Khattar, President & CEO. This position will be based at the Company's headquarters in Rockville, MD. We look forward to having you join Supernus Pharmaceuticals, Inc. on a mutually agreed upon date on or about October 12, 2020 ("Start Date"). The terms of your employment that are subject to final approval by the company's Compensation Committee are as follows:

Position and Duties:

Compensation: Your base compensation will be \$460,000.00 annually ("Base Salary"), paid in accordance with the Company's regular payroll schedule, which is presently twice per month. Your Base Salary will be subject to review for potential increase on an annual basis.

Bonus Plan: You will be eligible to participate in the Company Bonus Plan. Based on your job level, and contingent upon both employee and company performance, you will be eligible for an annual target bonus of 45% of your annual salary ("Annual Bonus"). Any Annual Bonus will be paid within the period the Company typically processes such annual bonus.

Benefits: Provided you remain employed in full-time regular status, you will be eligible for participation in the Company employee benefit plans, which include group medical, dental, short and long-term disability, life insurance, and flexible spending. You will be automatically enrolled in the Supernus Pharmaceuticals, Inc. 401(k) Profit Sharing Plan at an initial deferral rate of five percent (5%). You will have the opportunity to update this deferral rate at any time.

In addition, you will be eligible to accrue up to five (5) weeks (25 days) of vacation annually, prorated for the first year. You will also accrue one (1) floating holiday for calendar year 2020 and two (2) floating holidays per year, thereafter. You will be eligible to accrue up to ten (10)

[**] = CERTAIN CONFIDENTIAL INFORMATION OMITTED

days of sick leave per year (prorated for the first year), which will have a rolling accumulation of up to 180 days of sick leave throughout your career at Supernus.

Equity: On the Start Date, the Company shall grant you the option to purchase 135,000 shares of the Company's Common Stock ("Option"). The per-share exercise price of the Option shall be equal to the fair market value of one share of the Company's Common Stock on the date of grant. The maximum term of the Option shall be ten (10) years, subject to earlier expiration in the event of termination of the Executive's service with the Company. The grant of the Option shall be subject to the terms and conditions set forth in the Supernus Inc. 2012 Equity Incentive Plan and in the Company's standard form of Stock Option Agreement. The Option will become exercisable with respect to 25% of the shares on the first anniversary of the Start Date and with respect to the remaining 75% of the shares in equal annual installments over the next three (3) years of continuous service thereafter.

Employment at Will: Since continued employment is based upon mutual satisfaction and reward, this offer should not be construed as a contract for any fixed period. Rather, you will be employed in an "at will" status, which means that you or the Company may terminate your employment at any time for any reason, with or without notice.

Terms and Understandings: Notwithstanding anything in this letter to the contrary, this offer of employment is contingent upon, a satisfactory completion of your background check and criminal history report must be completed. Your acceptance below indicates that you will review and comply with Company rules and regulations, particularly those relating to safety and confidentiality. As a condition of employment, you will be required to complete an Employee Proprietary Information and Invention Agreement with the Company (additional attached electronic document), which prohibits any employee from accepting other consulting work or other outside work that the Company feels is in a conflict of interest to the work performed at Supernus.

Effective on your Start Date, the Company and you will enter into: (i) the Executive Retention Agreement attached as Exhibit A and (ii) the Indemnity Agreement attached as Exhibit B.

Acceptance: Please electronically sign this offer letter to indicate your acceptance and agreement with the terms of employment. Return the executed copy back to the Company within 3 business days after receipt and retain the electronic copy for your records.

We look forward to having you join Supernus Pharmaceuticals, Inc. Please contact me at 301-838-[*] or by email at [*] with any questions.

Sincerely,

/s/ Julie M. Clifford, SHRM-SCP
Executive Director, Human Resources

NOTE: Please bring two forms of Identification with you on your first day of employment (i.e., Driver's License and Social Security Card or Birth Certificate) or a valid US Passport. For a full listing of acceptable documentation, please visit <http://www.uscis.gov/i-9>.

[*] = CERTAIN CONFIDENTIAL INFORMATION OMITTED

EXECUTIVE RETENTION AGREEMENT

THIS EXECUTIVE RETENTION AGREEMENT (this "Agreement") is made and entered into this 12th day of October 2020 (the "Effective Date") by and between Supernus Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and James P. Kelly (the "Executive").

1. Definitions. Capitalized terms used in this Agreement shall have the meanings set forth either in this Section 1 or elsewhere in this Agreement.

(a) "Board" means the Board of Directors of the Company.

(b) "Cause" means (i) the Executive's willful refusal or failure to perform (other than by reason of Disability), or substantial negligence in the performance of, his duties and responsibilities to the Company or any of its affiliates, or his willful refusal or failure to follow or carry out any reasonable, lawful, written directive of the Board or of the Chief Executive Officer of the Company acting within the respective scopes of their authority; (ii) the Executive's willful breach of any material provision of any agreement (including, without limitation, any non-competition, non-solicitation or confidentiality agreement) with the Company or any of its affiliates; (iii) the Executive's act of dishonesty (iv) the Executive's breach of fiduciary duty of loyalty owed to the Company; (v) the Executive's willful breach of any material policy of the Company or an affiliate; or (vi) the Executive's commission of a felony or of a crime involving moral turpitude; or (vii) the Executive's conviction of, or plea of "guilty" or "no contest" to, a felony, including fraud, under the laws of the United States or any State thereof.

(c) "Change in Control" means the occurrence of any of the following:

(i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), becomes the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934, as amended), directly or indirectly, of securities of the Company representing more than 50% of the total voting power represented by the Company's then outstanding voting securities (excluding for this purpose any such voting securities held by the Company, or any affiliate, parent or subsidiary of the Company or any employee benefit plan of the Company);

(ii) a merger or consolidation of the Company which results in the holders of voting securities of the Company outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) at least 50% of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation;

(iii) the sale or disposition of all or substantially all of the assets of the Company (or the consummation of any transaction having similar effect); or

(iv) individuals who, as of the date hereof, constitute the Board (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board; *provided, however*, that any individual becoming a director subsequent to the date hereof whose election, or nomination for election, by the Company’s stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board.

Notwithstanding anything to the contrary herein, an event (or series of events) that would otherwise meet the definition of “Change in Control” under this Section 1(c) will not be deemed to meet such definition unless it also constitutes a “change in control event” as defined in Treasury Regulation § 1.409A-3(i)(5)(i).

(d) “Covered Termination” means the termination of the Executive’s Employment (1) by the Company without Cause (other than due to the Executive’s death or Disability), or (2) by the Executive for Good Reason.

(e) “Disabled” and correlative terms refers to the Executive’s inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months.

(f) “Employment” means the Executive’s employment with the Company and its subsidiaries and affiliates, as applicable. If the Executive’s employment is with a subsidiary and that entity ceases to be a subsidiary of the Company, the Executive’s Employment will be deemed to have terminated when the entity ceases to be a subsidiary of the Company unless the Executive transfers employment to the Company or one of its remaining subsidiaries. Notwithstanding the foregoing, in construing the provisions of this Agreement, references to termination or cessation of employment, separation from service, retirement or similar or correlative terms shall be construed to require a “separation from service” (as that term is defined in Section 1.409A-1(h) of the Treasury Regulations) from the Company and from all other corporations and trades or businesses, if any, that would be treated as a single “service recipient” with the Company under Section 1.409A-1(h)(3) of the Treasury Regulations. The Company may, but need not, elect in writing, subject to the applicable limitations under Section 409A, any of the special elective rules prescribed in Section 1.409A-1(h) of the Treasury Regulations for purposes of determining whether a “separation from service” has occurred. Any such written election shall be deemed a part of the Agreement.

(g) “Good Reason” means (1) a material reduction in the Executive’s position with the Company that materially reduces his level of authority or responsibility or (2) a material reduction in the Executive’s current base salary, or (3) a requirement by the Company that the Executive relocate his primary place of Employment by more than fifty (50) miles from his primary place of Employment. A termination of Employment will not be considered a termination for Good Reason unless (i) the Executive, within sixty (60) business days after the first occurrence of the condition giving rise to “Good Reason,” notifies the Company in writing

of his intent to terminate; (ii) the Company fails to cure such condition within thirty (30) days after being so notified; and (iii) the Executive actually terminates Employment no later than ten (10) days after the end of such thirty (30)-day cure period.

(h) “Intellectual Property” means any invention, formula, process, discovery, development, design, innovation or improvement (whether or not patentable or registrable under copyright statutes) made, conceived, or first actually reduced to practice by the Executive solely or jointly with others, during his Employment; *provided, however*, that, as used in this Agreement, the term “Intellectual Property” shall not apply to any invention that the Executive develops on his own time, without using the equipment, supplies, facilities or trade secret information of the Company or any of its subsidiaries or affiliates, unless such invention relates at the time of conception or reduction to practice of the invention (a) to the business of the Company or any of its subsidiaries or affiliates, (b) to the actual or demonstrably anticipated research or development of the Company or any of its subsidiaries or affiliates or (c) results from any work performed by the Executive for the Company or any of its subsidiaries or affiliates.

(i) “Person” means an individual, a corporation, a limited liability company, an association, a partnership, an estate, a trust and any other entity or organization, other than the Company or any of its subsidiaries or affiliates.

(j) “Termination Date” means the effective date of the Executive’s Covered Termination.

2. Severance Benefits.

(a) Covered Termination Prior to a Change in Control. Subject to Section 2(c), if the Executive experiences a Covered Termination prior to a Change in Control:

(i) The Company shall continue to pay the Executive his current base salary less required withholdings, payable in accordance with the Company’s regular payroll schedule, for a period of twelve (12) months following the Executive’s Termination Date; and

(ii) Provided the Executive timely elects COBRA coverage, the Company shall pay the Executive’s COBRA premiums at the same level of coverage (*e.g.*, employee only or family coverage, and HMO or PPO) the Executive had in effect under the group health plans sponsored by the Company immediately prior to the Termination Date. The Company shall pay such COBRA premiums until the earliest of (a) the close of the twelve (12)-month period following the Executive’s Termination Date (the “Maximum COBRA Payment Period”), (b) the COBRA coverage terminates or expires for the Executive and, if applicable, his spouse and dependents, and (c) the date the Executive becomes eligible for health insurance coverage in connection with new employment or self-employment. The amount of the Executive’s COBRA premiums paid by the Company shall be reduced appropriately as and when the COBRA coverage terminates or expires for each of the Executive and, if applicable, his spouse or dependents. Notwithstanding the foregoing, in the event the Company determines, in its sole discretion, that it cannot pay any such COBRA premiums without potentially causing the Company to incur penalties, excise taxes or other expenses as a result of noncompliance with applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying such COBRA premiums the Company will pay the Executive a taxable

lump sum amount equal to the amount of monthly COBRA premiums being paid by the Company on the Executive's behalf at the time the Company makes such determination multiplied by the number of full calendar months that remain in the Maximum COBRA Payment Period at the time such lump sum payment is made.

(iii) The obligation of the Company to make any payments described in this Section 2(a) is conditioned on the Executive's completion of ninety (90) days of service from and including the Effective Date of this Agreement.

(b) Covered Termination After Change in Control. Subject to Section 2(c), if the Executive experiences a Covered Termination on the date of, or within twelve (12) months after, a Change in Control:

(i) The Company shall continue to pay the Executive his current base salary less required withholdings, payable in accordance with the Company's regular payroll schedule, for a period of twelve (12) months following the date of the Executive's Covered Termination;

(ii) The Company shall pay the Executive a lump-sum payment equal to the most recent annual bonus received by the Executive;

(iii) The Executive's stock-based compensation arrangements shall be fully vested and nonforfeitable on the date of the Covered Termination and shall continue to be exercisable and payable in accordance with terms that apply under such arrangements other than any vesting requirements; *provided, however*, that in no event will the time and form of payment of any such arrangement that is subject to Section 409A of the Internal Revenue of 1986, as amended (the "Code"), be modified as result of such vesting; and

(iv) Provided the Executive timely elects COBRA coverage, the Company shall pay the Executive's COBRA premiums at the same level of coverage (*e.g.*, employee only or family coverage, and HMO or PPO) the Executive had in effect the group health plans sponsored by the Company immediately prior to the Termination Date. The Company shall pay such COBRA premiums until the earliest of (a) the close of the Maximum COBRA Payment Period, (b) the COBRA coverage terminates or expires for the Executive and, if applicable, his spouse and dependents, and (c) the date the Executive becomes eligible for health insurance coverage in connection with new employment or self-employment. The amount of the Executive's COBRA premiums paid by the Company shall be reduced appropriately as and when the COBRA coverage terminates or expires for each of the Executive and, if applicable, his spouse or dependents. Notwithstanding the foregoing, in the event the Company determines, in its sole discretion, that it cannot pay any such COBRA premiums without potentially causing the Company to incur penalties, excise taxes or other expenses as a result of noncompliance with applicable law (including, without limitation, Section 2716 of the Public Health Service Act), then in lieu of paying such COBRA premiums the Company will pay the Executive a taxable lump sum amount equal to the amount of monthly COBRA premiums being paid by the Company on the Executive's behalf at the time the Company makes such determination multiplied by the number of full calendar months that remain in the Maximum COBRA Payment Period at the time such lump sum payment is made.

(c) Release Required. The obligation of the Company to make any payments described in this Section 2 is conditioned on the Executive's execution and delivery to the Company not later than the forty-fifth (45th) day following the Termination Date a release of claims in substantially the same form as Exhibit A attached hereto and not revoking such release within seven (7) days after such execution and delivery (the "Release of Claims"). In no event will the Executive be entitled to duplicate compensation or benefits under Sections 2(a) and 2(b). To the extent any payments described in this Section 2 are subject to Code Section 409A, such payments will, except as provided in Section 2(d) and provided that the Executive complies with this Section 2(c), first become payable on the first regular payroll date for Company executives that occurs on or after the sixtieth (60th) day after the Termination Date, and the first installment of payments described in Section 2(a) or Sections 2(b)(1) and (4), whichever is applicable, shall include such amounts as would have been paid to or on behalf of the Executive had such payments begun with the first payroll date for Company executives following the Termination Date. In no event will the Executive be entitled to duplicate compensation or benefits under Sections 2(a) and 2(b).

(d) Timing of Payments; 409A. To the extent that any portion of the payments described in Section 2(a) constitutes nonqualified deferred compensation subject to Section 409A, and if at the Termination Date the Executive is a "specified employee" as that term is defined in Section 409A, such portion shall be paid no earlier than six (6) months and one day following the Termination Date. This Agreement shall be interpreted and administered in a manner so that any amount or benefit payable hereunder shall be paid or provided in a manner that is either exempt from or compliant with the requirements Section 409A of the Code and applicable Internal Revenue Service guidance and Treasury Regulations issued thereunder. Nonetheless, the tax treatment of the benefits provided under the Agreement is not warranted or guaranteed. Neither Company nor its directors, officers, employees or advisers shall be held liable for any taxes, interest, penalties or other monetary amounts owed by the Executive as a result of the application of Section 409A or any other provision of the Code.

3. Restrictive Covenants.

(a) Confidentiality. From the date hereof, and during any period of the Executive's Employment and following any termination thereof, without the prior written consent of the Board or its authorized representative, except to the extent required by law or an order of a court having jurisdiction or under subpoena from an appropriate government agency, in which event the Executive shall use the Executive's best efforts to consult with the Board prior to responding to any such order or subpoena, and except as required in the performance of his duties hereunder, the Executive shall not disclose any confidential or proprietary trade secrets, customer lists, referral sources, drawings, designs, information regarding product development, marketing plans, sales plans, manufacturing plans, management organization information (including but not limited to data and other information relating to members of the Board, the Company or any of its subsidiaries or affiliates or to the management of the Company or any its subsidiaries or affiliates), operating policies or manuals, business plans, financial records, packaging design or other financial, commercial, business or technical information (a) relating to the Company or any of its subsidiaries or affiliates or (b) that the Company or any of its subsidiaries or affiliates may receive belonging to suppliers, customers, referral sources or others who do business with the Company or any of its affiliates (collectively, "Confidential").

Information”) to any third Person unless such Confidential Information has been previously disclosed to the public or is in the public domain (in each case, other than by reason of the Executive’s breach of this Section 3(a) or the wrongful act of any other Person having any obligation of confidentiality to the Company or any of its subsidiaries or affiliates). In the event of the termination of the Executive’s Employment for any reason, the Executive shall deliver to the Company all of (a) the property of each of the Company and its subsidiaries and affiliates and (b) the documents and data of any nature and in whatever medium of each of the Company and its subsidiaries and affiliates, and the Executive shall not take with the Executive any such property, documents or data or any reproduction thereof, or any documents containing or pertaining to any Confidential Information other than those documents to which he is legally entitled, including, as the case may be, the Executive’s personnel file.

(b) Non-Competition. During the period commencing on the date hereof and ending twelve (12) months after the termination of the Executive’s Employment with the Company and its subsidiaries and affiliates (the “Restriction Period”), the Executive shall not, except with the prior written consent of the Board, directly or indirectly, own any interest in, operate, join, control or participate as a partner, director, principal, officer or agent of, enter into the employment of, act as a consultant to, or perform any services for any entity which has material operations which directly competes with the products or research and development projects of the Company and its subsidiaries and affiliates or in which the Company or any of its subsidiaries or affiliates was, or had documented plans to become, materially involved during the Executive’s Employment, in each case in any jurisdiction in which the Company or any of its subsidiaries or affiliates is engaged, or in which any of the foregoing has documented plans to become engaged of which the Executive has knowledge at the time of the Executive’s termination of Employment. Notwithstanding anything herein to the contrary, the foregoing shall not prevent the Executive from acquiring as an investment securities representing not more than two percent (2%) of the outstanding voting securities of any publicly held corporation.

(c) Non-Solicitation. Acknowledging the strong interest of the Company and its subsidiaries and affiliates in an undisrupted workplace, during the Restriction Period, the Executive shall not, and shall not assist any Person to, (a) hire or solicit for hiring any employee or former employee of the Company or its subsidiaries or affiliates or seek to persuade any employee of the Company or subsidiaries or affiliates to discontinue employment or (b) solicit or encourage any independent contractor providing services to the Company or its subsidiaries or affiliates to terminate or diminish its relationship with the Company or any of its subsidiaries or affiliates. The Executive acknowledges that his access to Confidential Information and to the Company’s and its subsidiaries’ and affiliates’ referral sources and customers and his development of goodwill on behalf of the Company and its subsidiaries and affiliates with their referral sources and customers during his Employment would give him an unfair competitive advantage were he to leave employment and begin competing with the Company or any of its subsidiaries or affiliates for their existing referral sources and customers and that he is therefore being granted access to Confidential Information and to the referral sources and customers of the Company and its subsidiaries and affiliates in reliance on his agreement hereunder. The Executive therefore agrees that, during the Restriction Period, he will not solicit or encourage any referral source or customer of the Company or its subsidiaries or affiliates to terminate or diminish its relationship with the Company, or any of its subsidiaries or affiliates and he will not seek to persuade any such referral source or customer to conduct with any Person any business or

activity which such referral source or customer conducts or could conduct with the Company or any of its subsidiaries or affiliates; *provided, however*, that these restrictions shall apply only with respect to those Persons who are referral sources or customers of the Company or any of its subsidiaries and affiliates at any time during his Employment or whose business has been solicited on behalf of the Company or any of its subsidiaries or affiliates by any of their employees or agents, other than by form letter, blanket mailing or published advertisement, within one year prior to the date his employment ends.

(d) Works for Hire. The Executive agrees to maintain accurate and complete contemporaneous records of, and shall immediately and fully disclose and deliver to the Company, all Intellectual Property. The Executive hereby assigns and agrees to assign to the Company (or as otherwise directed by the Company) his full right, title and interest in and to all Intellectual Property. The Executive agrees to execute any and all applications for domestic and foreign patents, copyrights and other proprietary rights and do such other acts (including, among others, the execution and delivery of instruments of further assurance or confirmation) requested by the Company to assign the Intellectual Property to the Company (or one of its subsidiaries or affiliates, as directed) and to permit the Company to enforce any patents, copyrights and other proprietary rights in the Intellectual Property. The Executive will not charge the Company or any of its subsidiaries or affiliates for time spent in complying with these obligations. All copyrightable works that the Executive creates, including without limitation computer programs and documentation, shall be considered “work made for hire” and shall, upon creation, be owned exclusively by the Company.

4. Withholding. All payments made by the Company under this Agreement shall be reduced by any tax or other amounts required to be withheld by the Company under applicable law.

5. Assignment. The Company shall require any corporation, entity, individual or other person who is the successor (whether direct or indirect by purchase, merger, consolidation, reorganization or otherwise) to all or substantially all the business or assets of the Company to assume, whether expressly or by operation of law, all of the obligations of the Company under this Agreement. The Executive may not transfer or assign his rights under this Agreement, except as permitted by the laws of descent and distribution.

6. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of either party to require the performance of any term or obligation of this Agreement, or the waiver by either party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

8. Sections 280G/ 4999. In the event it is determined that the Executive is entitled to payments and/or benefits under this Agreement or any other amounts in the “nature of compensation” (whether pursuant to this Agreement or any other plan, arrangement or agreement with the Company or any affiliate, any person whose actions result in a change of ownership or effective control of the Company covered by Section 280G(b)(2) of the Code or any person affiliated with the Company or such person) as a result of such change of ownership or effective control of the Company (“Payments”) would be subject to the excise tax imposed by Section 4999 of the Code (the “280G Excise Tax”), notwithstanding anything in this Agreement to the contrary, the Company shall cause to be determined, before any amounts of the Payments are paid to the Executive, which of the two following alternative forms of payment would maximize the Executive’s after-tax proceeds: (i) the payment in full of the entire amount of the Payments, or (ii) payment of only a part of the Payments such that the Executive receives the largest possible payment without the imposition of the 280G Excise Tax (the “Reduced Amount”). If it is determined that the Reduced Amount will maximize the Executive’s after-tax proceeds, the Payments shall be reduced to equal the Reduced Amount in the following order: (i) first, by reducing the Payments under Section 2 to the extent necessary, (ii) second, if necessary, by reducing other Payments that are not subject to the rule described in Treasury Regulation Section 1.280G-1 Q&A 24(c), and (iii) third, if necessary, by reducing other Payments that are subject to the rule described in Treasury Regulation Section 1.280G-1 Q&A 24(c); *provided, however*, that in each case where amounts are paid in more than one installment, each installment shall be reduced proportionally; and *provided, further*, that in each case Payments are reduced starting with any Payments that shall be exempt from Section 409A and proceeding to other Payments that are not exempt from Section 409A. Unless the Executive consents in writing to a different methodology, all determinations under this Section 8 shall be made at the Company’s expense by a nationally recognized accounting or consulting firm that is reasonably acceptable to the Executive.

9. Clawback Policy. The Executive acknowledges and agrees that any Payments made to the Executive pursuant to Section 2 hereof shall be subject to the Company’s Clawback Policy effective as of April 23, 2018.

10. Injunctive Relief; Breach of Restrictive Covenants; Blue Pencil.

(a) Injunctive Relief. The Executive acknowledges and agrees that the covenants, obligations and agreements of Executive contained in Section 3 relate to special, unique and extraordinary matters and that a violation of any of the terms of such covenants, obligations or agreements will cause the Company irreparable injury for which adequate remedies are not available at law. Therefore, the Executive agrees that the Company shall be entitled to an injunction, restraining order or such other equitable relief (without the requirement to post bond) as a court of competent jurisdiction may deem necessary or appropriate to restrain the Executive from committing any violation of such covenants, obligations or agreements, and shall additionally be entitled to an award of reasonable attorneys’ fees. These injunctive remedies are cumulative and in addition to any other rights and remedies the Company may have.

(b) Breach of Restrictive Covenants. The Executive agrees that in the event the Executive breaches any provision of Section 3 hereof in any material respect, the Executive

shall (i) not be entitled to receive, if not already paid, any amount otherwise payable under this Agreement, and (ii) return to the Company any and all payments previously made by the Company pursuant to this Agreement within fifteen (15) days after written demand for such repayment is made to the Executive by the Company.

(c) Blue Pencil. The Executive and the Company agree that the covenants contained in Section 3 hereof are reasonable covenants under the circumstances, and further agree that if, in the opinion of any court of competent jurisdiction such covenants are not reasonable in any respect, such court shall have the right, power and authority to (and it is the intent of the Executive and the Company that such court shall) excise or modify such provision or provisions of these covenants that to the court appear not reasonable and to enforce the remainder of these covenants as so amended.

11. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and supersedes and terminates all prior communications, agreements and understandings, written or oral, with respect thereto including, without limitation, the severance provisions, if any, of any offer letter the Executive may have previously received from the Company.

12. Effect on Employment. Nothing contained herein will give the Executive any right to Employment with the Company or any of its affiliates or affect the right of the Company or any of its affiliates to discharge or discipline the Executive at any time.

13. Amendment. This Agreement may be amended or modified only by a written instrument signed by the Executive and by an expressly authorized representative of the Company.

14. Headings. The headings and captions in this Agreement are for convenience only and in no way define or describe the scope or content of any provision of this Agreement.

15. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

16. Governing Law. This Agreement and all claims or disputes arising out of or based upon this Agreement or relating to the subject matter hereof will be governed by and construed in accordance with the domestic substantive laws of the State of Maryland without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, this Agreement has been executed by the Company, by its duly authorized representative, and by the Executive, as of the date first above written.

THE EXECUTIVE: THE COMPANY:

/s/ James P. Kelly By: /s/ Jack A. Khattar

James P. Kelly Jack A. Khattar

Executive Vice President & CFO President & CEO

Signature Page to Executive Retention Agreement

Exhibit A

Release of Claims

FOR AND IN CONSIDERATION OF the benefits to be provided me in connection with the termination of my employment, as set forth in the Executive Retention Agreement, dated as of October 12, 2020 (the "Agreement"), which are conditioned on my signing this Release of Claims and to which I am not otherwise entitled, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I, on my own behalf and on behalf of my heirs, executives, administrators, beneficiaries, representatives and assigns, and all others connected with me, hereby release and forever discharge SUPERNUS PHARMACEUTICALS, INC. (the "Company"), its subsidiaries and other affiliates and all of their respective past, present and future officers, directors, trustees, stockholders, employees, agents, plans and plan fiduciaries, insurers, general and limited partners, members, managers, joint venturers, representatives, successors and assigns, and all others connected with any of them, both individually and in their official capacities, from any and all causes of action, rights and claims of any type or description, known or unknown, which I have had in the past, now have, or might now have, through the date of my signing of this Release of Claims, in any way resulting from, arising out of or connected with my employment by the Company or any of its subsidiaries or other affiliates or the termination of that employment or pursuant to any federal, state or local law, regulation or other requirement (including without limitation the Civil Rights Act of 1964 (including Title VII of that Act), the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967 (ADEA), the Americans with Disabilities Act of 1990 (ADA), the Fair Labor Standards Act of 1938 (FLSA), the Family and Medical Leave Act of 1993 (FMLA), the Worker Adjustment and Retraining Notification Act (WARN), the Employee Retirement Income Security Act of 1974 (ERISA), the National Labor Relations Act (NLRA), and the fair employment practices laws of the state or states in which I have been employed by the Company or any of the subsidiaries or other affiliates, each as amended from time to time).

Excluded from the scope of this Release of Claims is (i) any amount owed to me pursuant to the Agreement; (ii) any claim arising under the terms of the Agreement after the effective date of this Release of Claims, (iii) any right of indemnification or contribution that I have pursuant to the Articles of Incorporation or By-Laws of the Company or any of its subsidiaries or other affiliates and (iv) any non-forfeitable rights to accrued benefits, if any, arising under any applicable employee benefit plans.

I agree that I have no right to obtain or receive any monetary damages or other relief of any kind as a result of any action or proceeding by me or by anyone else on my behalf regarding any claims covered by the above general release and, to the extent permitted by law, I agree that I will not seek or accept any monetary damages or other relief of any kind in any such action or proceeding. In addition, without limiting the scope of the foregoing, I expressly (i) agree not to be a class representative or be part of a class regarding any action under ERISA, or otherwise to bring an action under ERISA on behalf of a plan or trust for relief for such plan or trust under ERISA, and (ii) to the extent permitted by law, agree not to retain the benefits of any decision, judgment or settlement in any such action.

In signing this Release of Claims, I acknowledge my understanding that I may not sign it prior to the termination of my employment, but that I may consider the terms of this Release of Claims for up to twenty-one (21) days (or such longer period as the Company may specify) from the later of the date my employment with the Company terminates or the date I receive this Release of Claims. I also acknowledge that I am advised by the Company and its subsidiaries and other affiliates to seek the advice of an attorney prior to signing this Release of Claims; that I have had sufficient time to consider this Release of Claims and to consult with an attorney, if I wished to do so, or to consult with any other person of my choosing before signing; and that I am signing this Release of Claims voluntarily and with a full understanding of its terms.

I further acknowledge that, in signing this Release of Claims, I have not relied on any promises or representations, express or implied, that are not set forth expressly in the Plan. I understand that I may revoke this Release of Claims at any time within seven (7) days of the date of my signing by written notice to the Chief Financial Officer of the Company and that this Release of Claims will take effect only upon the expiration of such seven (7)-day revocation period and only if I have not timely revoked it.

Intending to be legally bound, I have signed this Release of Claims under seal as of the date written below.

Signature: _____

Name (please print): _____

Date Signed: _____



Supernus Pharmaceuticals Appoints James Kelly as Chief Financial Officer

Greg Patrick to Retire as Chief Financial Officer

ROCKVILLE, Md., October 5, 2020 - Supernus Pharmaceuticals, Inc. (Nasdaq: SUPN), a pharmaceutical company focused on developing and commercializing products for the treatment of central nervous system (CNS) diseases, today announced the appointment of James Kelly as Chief Financial Officer, effective October 12, 2020. Mr. Kelly brings to Supernus over 25 years of biopharmaceutical industry experience, including most recently as Chief Financial Officer and Treasurer of Vanda Pharmaceuticals Inc. Mr. Kelly will be responsible for developing and leading Supernus' financial operations and strategy to effectively support the Company's growth. Greg Patrick, who will be retiring from his role as Supernus' Chief Financial Officer, will remain an advisor to the Company to assist with the transition.

"Jim brings to Supernus a proven track record of financial leadership experience, including nearly 10 years as chief financial officer of a public biopharmaceutical company," said Jack Khattar, President and CEO of Supernus. "Jim's financial and business expertise will be invaluable as we advance our company forward. We are thrilled to have him join us at such an exciting time."

Mr. Kelly is a highly qualified biopharmaceutical executive who brings strong skills and experience in the financial stewardship of publicly-traded companies, development and commercialization of pharmaceutical products, execution and management of strategic transactions and collaborations and significant capital markets experience funding growth companies. Most recently, Mr. Kelly was the Chief Financial Officer of Vanda Pharmaceuticals, a public biopharmaceutical company from 2010 to 2020. Prior to joining Vanda, Mr. Kelly was Vice President, Controller at MedImmune, a biotechnology subsidiary of the AstraZeneca Group, where he managed global financial accounting and reporting. He joined MedImmune as Director of Sales and Marketing Finance in 2006. Prior to MedImmune and beginning in 2000, Mr. Kelly was at Biogen serving in research & development finance roles of increasing responsibility, most recently as the Director of Planning and Operations. From 1997 to 2000, Mr. Kelly was a member of the corporate finance team at Aetna Inc. responsible for mergers and acquisitions and treasury management. He began his life sciences career in 1991 with Janssen Pharmaceutica, a division of Johnson & Johnson. Mr. Kelly holds an M.B.A. in Finance from Cornell University and a B.S. in Business Administration from the University of Vermont. In addition, he is a Chartered Financial Analyst.

"On behalf of Supernus' employees and Board of Directors, I want to thank Greg for his years of dedicated leadership, financial discipline, numerous contributions to Supernus and his commitment to a smooth transition of the financial reins of the Company," added Mr. Khattar. "Since joining Supernus as Chief Financial Officer in 2011, Greg has built a strong team, established the Company on a solid financial foundation, and guided the Company through two successful product launches, numerous financings and a significant acquisition."

About Supernus Pharmaceuticals, Inc.

Supernus Pharmaceuticals, Inc. is a pharmaceutical company focused on developing and commercializing products for the treatment of central nervous system (CNS) diseases. The Company markets Trokendi XR® (extended-release topiramate) for the prophylaxis of migraine and the treatment of epilepsy; Oxtellar XR® (extended-release oxcarbazepine) for the treatment of epilepsy; APOKYN® (apomorphine hydrochloride injection) for the acute treatment of hypomobility in advanced Parkinson's disease (PD); MYOBLOC® (rimabotulinumtoxinB) for the treatment of cervical dystonia and treatment of chronic sialorrhea in adults; and XADAGO® (safinamide) as an adjunctive treatment to levodopa/carbidopa in PD patients with hypomobility. The Company is also developing several product candidates to address large market opportunities in the CNS market, including SPN-812 for the treatment of ADHD; SPN-830 for hypomobility in PD; SPN-820 for treatment-resistant depression; and SPN-817 for the treatment of epilepsy.

See full Prescribing Information for our products here: [Trokendi XR](#), [Oxtellar XR](#), [APOKYN](#), [MYOBLOC](#), and [XADAGO](#).

All trademarks are the property of their respective owners.

Forward-Looking Statements:

This press release includes forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These statements do not convey historical information, but relate to predicted or potential future events that are based upon management's current expectations. These statements are subject to risks and uncertainties that could cause actual results to differ materially from those expressed or implied by such statements. In addition to the factors mentioned in this press release, such risks and uncertainties include, but are not limited to, the Company's ability to sustain and increase its profitability; the Company's ability to raise sufficient capital to fully implement its corporate strategy; the implementation of the Company's corporate strategy; the Company's future financial performance and projected expenditures; the Company's ability to increase the number of prescriptions written for each of its products; the Company's ability to increase its net revenue; the Company's ability to enter into future collaborations with pharmaceutical companies and academic institutions or to obtain funding from government agencies; the Company's product research and development activities, including the timing and progress of the Company's clinical trials, and projected expenditures; the Company's ability to receive, and the timing of any receipt of, regulatory approvals to develop and commercialize the Company's product candidates; the Company's ability to protect its intellectual property and operate its business without infringing upon the intellectual property rights of others; the Company's expectations regarding federal, state and foreign regulatory requirements; the therapeutic benefits, effectiveness and safety of the Company's product candidates; the accuracy of the Company's estimates of the size and characteristics of the markets that may be addressed by its product candidates; the Company's ability to increase its manufacturing capabilities for its products and product candidates; the Company's projected markets and growth in markets; the Company's product formulations and patient needs and potential funding sources; the Company's staffing needs; and other risk factors set forth from time to time in the Company's filings with the Securities and Exchange Commission made pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended. The Company undertakes no obligation to update the information in this press release to reflect events or circumstances after the date hereof or to reflect the occurrence of anticipated or unanticipated events.

CONTACTS:

Jack A. Khattar, President and CEO
Gregory S. Patrick, Senior Vice President and CFO
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