
**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 25, 2024

KINTARA THERAPEUTICS, INC.

(Exact name of Registrant as Specified in Its Charter)

Nevada
(State or Other Jurisdiction
of Incorporation)

001-37823
(Commission File Number)

99-0360497
(IRS Employer
Identification No.)

9920 Pacific Heights Blvd
Suite 150
San Diego, California
(Address of Principal Executive Offices)

92121
(Zip Code)

Registrant's Telephone Number, Including Area Code: (858) 350-4364

N/A

(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 Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	KTRA	The Nasdaq Capital Market

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 1.01 Entry into a Material Definitive Agreement.

As previously announced, on April 2, 2024, Kintara Therapeutics, Inc. (“Kintara”), Kayak Mergeco, Inc., a wholly-owned subsidiary of Kintara incorporated in the State of Delaware (“Merger Sub”), and TuHURA Biosciences, Inc., a Delaware corporation (“TuHURA” and collectively with Kintara and Merger Sub, the “Parties”), entered into an Agreement and Plan of Merger (the “Merger Agreement”) pursuant to which Merger Sub will merge with and into TuHURA, with TuHURA surviving the merger and becoming a direct, wholly-owned subsidiary of Kintara (the “Merger”).

On September 25, 2024, the Parties entered into a Waiver Agreement (the “Waiver Agreement”) pursuant to which TuHURA waived the requirement in the Merger Agreement that Kintara stockholders approve the reincorporation of Kintara from the State of Nevada to the State of Delaware as a condition to closing the Merger. In addition, pursuant to the Waiver Agreement, the Parties agreed to waive the requirement in the Merger Agreement that Kintara stockholders approve an increase to the number of authorized shares of Kintara common stock, par value \$0.001 per share, as a condition to closing the Merger, with such waiver conditioned upon the contemplated reverse stock split being effected at a ratio of 1-for-35 or greater, as set forth in the definitive proxy statement and final prospectus filed by Kintara on August 19, 2024.

The preceding summary of the Waiver Agreement does not purport to be complete and is qualified in its entirety by reference to the Waiver Agreement, which is filed as Exhibit 2.1 hereto, and which is incorporated herein by reference.

Additional Information about the Proposed Merger and Where to Find It

This Current Report on Form 8-K does not constitute an offer to buy or sell or the solicitation of an offer to buy or sell any securities or a solicitation of any vote or approval. This Current Report on Form 8-K relates to the proposed Merger of Kintara and TuHURA. In connection with the proposed Merger, Kintara has filed a Registration Statement on Form S-4 and a definitive proxy statement and a final prospectus of Kintara (the “proxy statement/prospectus”). This registration statement was declared effective on August 13, 2024 and Kintara has filed or may file other documents regarding the proposed Merger with the SEC. No offering of securities shall be made, except by means of a prospectus meeting the requirements of Section 10 of the Securities Act. INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE REGISTRATION STATEMENT, THE DEFINITIVE PROXY STATEMENT/PROSPECTUS AND ANY OTHER RELEVANT DOCUMENTS FILED WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY, WHEN THEY BECOME AVAILABLE, BECAUSE THEY CONTAIN AND THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT KINTARA, TUHURA, THE PROPOSED MERGER AND RELATED MATTERS THAT STOCKHOLDERS SHOULD CONSIDER BEFORE MAKING ANY DECISION REGARDING THE PROPOSED MERGER. A definitive proxy statement/prospectus has been sent to Kintara’s stockholders. Investors and security holders will be able to obtain these documents (when available) free of charge from the SEC’s website at www.sec.gov. In addition, investors and stockholders should note that Kintara communicates with investors and the public using its website (www.kintara.com), the investor relations website (<https://www.kintara.com/investors>) where anyone will be able to obtain free copies of the definitive proxy statement/prospectus and other documents filed by Kintara with the SEC, and stockholders are urged to read the definitive proxy statement/prospectus and the other relevant materials (when they become available) before making any voting or investment decision with respect to the proposed Merger.

Participants in the Solicitation

Kintara, TuHURA and their respective directors and executive officers and other members of management and employees and certain of their respective significant stockholders may be deemed to be participants in the solicitation of proxies from Kintara stockholders in respect of the proposed Merger. Information about Kintara’s directors and executive officers is available in Kintara’s proxy statement, which was filed with the SEC on May 17, 2024 for the 2024 Annual Meeting of Stockholders, Kintara’s Annual Report on Form 10-K for the fiscal year ended June 30, 2023, which was filed with the SEC on September 18, 2023 and the definitive proxy statement/prospectus. Information regarding the persons who may, under the rules of the SEC, be deemed participants in the proxy solicitation and a description of their direct and indirect interests, by security holding or otherwise, has been and will be contained in the definitive proxy statement/prospectus and other relevant materials to be filed with the SEC

regarding the proposed Merger when they become available. Investors should read the definitive proxy statement/prospectus carefully before making any voting or investment decisions. You may obtain free copies of these documents from the SEC and Kintara as indicated above.

No Offer or Solicitation

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any proxy, consent, authorization, vote or approval, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act.

Forward-Looking Statements

This Current Report on Form 8-K and the communication attached hereto as Exhibit 2.1 contain forward-looking statements based upon Kintara's and TuHURA's current expectations. This communication contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are identified by terminology such as "believe," "may," "will," "estimate," "continue," "anticipate," "intend," "could," "should," "would," "project," "plan," "expect," "goal," "seek," "future," "likely" or the negative or plural of these words or similar expressions. These statements are only predictions. Kintara and TuHURA have based these forward-looking statements largely on their then-current expectations and projections about future events, as well as the beliefs and assumptions of management. Forward-looking statements are subject to a number of risks and uncertainties, many of which involve factors or circumstances that are beyond each of Kintara's and TuHURA's control, and actual results could differ materially from those stated or implied in forward-looking statements due to a number of factors, including but not limited to: (i) the risk that the conditions to the closing or consummation of the proposed Merger are not satisfied, including the failure to obtain Kintara stockholder approval for the proposed Merger; (ii) uncertainties as to the timing of the consummation of the proposed Merger and the ability of each of Kintara and TuHURA to consummate the transactions contemplated by the proposed Merger; (iii) risks related to Kintara's and TuHURA's ability to correctly estimate their respective operating expenses and expenses associated with the proposed Merger, as applicable, as well as uncertainties regarding the impact any delay in the closing would have on the anticipated cash resources of the resulting combined company upon closing and other events and unanticipated spending and costs that could reduce the combined company's cash resources; (iv) the occurrence of any event, change or other circumstance or condition that could give rise to the termination of the proposed Merger by either Kintara or TuHURA; (v) the effect of the announcement or pendency of the proposed Merger on Kintara's or TuHURA's business relationships, operating results and business generally; (vi) costs related to the proposed Merger; (vii) the outcome of any legal proceedings that may be instituted against Kintara, TuHURA, or any of their respective directors or officers related to the Merger Agreement or the transactions contemplated thereby; (viii) the ability of Kintara or TuHURA to protect their respective intellectual property rights; (ix) competitive responses to the proposed Merger; (x) unexpected costs, charges or expenses resulting from the proposed Merger; (xi) whether the combined business of TuHURA and Kintara will be successful; (xii) legislative, regulatory, political and economic developments; and (xiii) additional risks described in the "Risk Factors" section of Kintara's Annual Report on Form 10-K for the fiscal year ended June 30, 2023, and the registration statement on Form S-4 related to the proposed Merger filed with the SEC. Additional assumptions, risks and uncertainties are described in detail in Kintara's registration statements, reports and other filings with the SEC, which are available on Kintara's website, and at www.sec.gov. Accordingly, you should not rely upon forward-looking statements as predictions of future events. Neither Kintara nor TuHURA can assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results could differ materially from those projected in the forward-looking statements. The forward-looking statements made in this communication relate only to events as of the date on which the statements are made. Except as required by applicable law or regulation, Kintara and TuHURA undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. Investors should not assume that any lack of update to a previously issued "forward-looking statement" constitutes a reaffirmation of that statement.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

Exhibit No.	Description
2.1	Waiver Agreement to Agreement and Plan of Merger, dated as of September 25, 2024, by and among Kintara Therapeutics, Inc., Kayak Mergeco, Inc., and TuHURA Biosciences, Inc.

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.

KINTARA THERAPEUTICS, INC.

Date: September 25, 2024

By: /s/ Robert E. Hoffman
Name: Robert E. Hoffman
Title: Chief Executive Officer

WAIVER AGREEMENT

This WAIVER AGREEMENT (this "*Waiver*"), dated as of September 25, 2024, is entered into by and among Kintara Therapeutics, Inc. ("*Kintara*"), Kayak Mergco, Inc., a wholly-owned subsidiary of Kintara incorporated in the State of Delaware ("*Merger Sub*"), and TuHURA Biosciences, Inc., a Delaware corporation (the "*Company*"). Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Merger Agreement (as defined below).

RECITALS

WHEREAS, Kintara, the Company, and Merger Sub (individually referred to as a "*Party*" and collectively as the "*Parties*") have previously entered into that certain Agreement and Plan of Merger, dated April 2, 2024 (the "*Merger Agreement*");

WHEREAS, Section 6.8(a)(ii) of the Merger Agreement provides that Kintara will consider and vote at a meeting of the stockholders, if deemed necessary by the Parties, to amend the certificate of incorporation of Kintara to increase the number of authorized shares of common stock of Kintara (the "*Charter Proposal*");

WHEREAS, Section 7.1(b) of the Merger Agreement provides that the obligation of each Party to effect the Merger and otherwise consummate the transactions contemplated by the Merger Agreement at the Closing is subject to receipt by Kintara of the Parent Stockholder Approval (as defined in the Merger Agreement), which includes approval by the stockholders of Kintara of the Charter Proposal (the "*Authorized Share Condition*");

WHEREAS, Section 6.8(a)(iv) of the Merger Agreement provides that Kintara will consider and vote at a meeting of its stockholders to effect the Reincorporation (as such term is defined in the Merger Agreement) (the "*Reincorporation Proposal*");

WHEREAS, Kintara filed with the Securities and Exchange Commission (the "*SEC*") a registration statement on Form S-4 (Registration No. 333-279368), including the prospectus and proxy statement contained therein, on May 13, 2024, which was declared effective by the SEC on August 13, 2024, in order to, among other things, solicit votes for the approval of the Charter Proposal and the Reincorporation Proposal;

WHEREAS, the Parties continue to use commercially reasonable best efforts to obtain the number of votes required to approve the Charter Proposal, satisfy the Authorized Share Condition, and approve the Reincorporation Proposal;

WHEREAS, the Parties desire to waive the Authorized Share Condition set forth in Section 7.1(b) of the Merger Agreement so long as Kintara effects, immediately prior to the effectiveness of the Merger, a reverse stock split of the shares of common stock of Kintara (the "*Reverse Split*") at a ratio of 1-for-35 or greater;

WHEREAS, the Parties desire to agree and acknowledge that the Reincorporation Proposal shall not be, and the Parties desire, to the extent necessary, to waive the approval of the Reincorporation Proposal as, a condition precedent to the completion of the Merger; and

WHEREAS, the conditions precedent to Closing may be waived pursuant to Section 7.1 of the Merger Agreement upon the written waiver by each of Kintara, Merger Sub, and the Company.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Waiver of Authorized Share Condition. Each Party hereby waives compliance by Kintara with the Authorized Share Condition set forth in Section 7.1(b) of the Merger Agreement as a condition precedent to the Parties' obligation to effect the Merger so long as the Company effects the Reverse Split at a ratio of 1-for-35 or greater.

2. Waiver of Approval of Reincorporation Proposal. The Parties hereby agree and acknowledge that approval of the Reincorporation Proposal shall not be, and the Company hereby waives, to the extent necessary, the approval of the Reincorporation Proposal as, a condition precedent to the Company's obligation to effect the Merger.

3. Continuing Effect. Except as expressly set forth herein, all of the terms and conditions of the Merger Agreement shall remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, nothing contained herein shall be deemed a waiver of any other provision of the Merger Agreement or as a waiver of or consent to any further or future action on the part of any Party that would require the waiver or consent of another Party.

4. Counterparts; Choice of Law. This Waiver may be executed in several identical counterparts all of which shall constitute one and the same instrument. This Waiver shall be construed and enforced in accordance with the laws of the State of Delaware, without regard to the principles of conflicts of law thereof.

5. Further Assurances. Each of the Parties hereto shall execute and deliver, at the reasonable request of the other Party hereto, such additional documents, instruments, conveyances and assurances and take such further actions as such other Party may reasonably request to carry out the provisions hereof and give effect to the transactions contemplated by this Waiver.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Waiver to be duly executed as of the day and year written above.

COMPANY:

TUHURA BIOSCIENCES, INC.

Name: James A. Bianco

By: /s/ James A. Bianco

Title: Chief Executive Officer

KINTARA:

KINTARA THERAPEUTICS, INC.

Name: Robert Hoffman

By: /s/ Robert Hoffman

Title: Chief Executive Officer

MERGER SUB:

KINTARA MERGECO, INC.

Name: Robert Hoffman

By: /s/ Robert Hoffman

Title: President and Secretary

[Signature Page to Waiver Agreement]

