

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Progyny, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

27-2220139
(I.R.S. Employer
Identification No.)

1359 Broadway
New York, New York 10018
(212) 888-3124
(Address of Principal Executive Offices)
(Zip Code)

Progyny, Inc. 2019 Equity Incentive Plan
Progyny, Inc. 2019 Employee Stock Purchase Plan
(Full title of the plan)

Jennifer Bealer
General Counsel
Progyny, Inc.
1359 Broadway
New York, New York 10018
(212) 888-3124
(Name and address of agent for service)
(Telephone number, including area code, of agent for service)

Copies to:
Marc D. Jaffe
Alison Haggerty
Latham & Watkins LLP
885 Third Avenue
New York, New York 10022
(212) 906-1200

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
Non-accelerated filer

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.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, par value \$0.0001 per share				
- 2019 Equity Incentive Plan	5,555,106 ⁽²⁾	\$ 42.31 ⁽⁴⁾	\$ 235,036,534.86	\$ 25,642.49
- 2019 Employee Stock Purchase Plan	870,543 ⁽³⁾	\$ 35.9635 ⁽⁵⁾	\$ 31,307,773.18	\$ 3,415.68
Total	6,425,649		\$ 266,344,308.04	\$ 29,059.16

- (1) Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the “*Securities Act*”), this Registration Statement shall also cover any additional shares of the Registrant’s common stock that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of the Registrant’s common stock.
- (2) Represents additional shares of the Registrant’s common stock authorized for issuance under the Registrant’s 2019 Equity Incentive Plan (the “*2019 Plan*”) pursuant to (i) an automatic annual increase equal to 4% of the total number of shares of the Registrant’s common stock outstanding on December 31 of the preceding year, which annual increase is provided by the 2019 Plan, plus (ii) 2,072,933 shares of the Registrant’s common stock that have become available for issuance under the 2019 Plan as a result of the forfeiture, termination, expiration, repurchase or withholding of stock options or other stock awards that had been granted under the Registrant’s 2017 Equity Incentive Plan (the “*2017 Plan*”), pursuant to the terms of the 2019 Plan.

- (3) Represents additional shares of the Registrant's common stock authorized for issuance under the Registrant's 2019 Employee Stock Purchase Plan (the "**2019 ESPP**") and together with the 2019 Plan, the "**Plans**") pursuant to an automatic annual increase equal to 1% of the total number of shares of the Registrant's common stock outstanding on December 31 of the preceding year, which annual increase is provided by the 2019 ESPP.
 - (4) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of the average of the high and low prices of the Registrant's common stock as reported on the Nasdaq Global Select Market on February 26, 2021.
 - (5) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of the average of the high and low prices of the Registrant's common stock as reported on the Nasdaq Global Select Market on February 26, 2021, multiplied by 85%, which is the percentage of the price per share applicable to purchases under the 2019 ESPP.
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REGISTRATION OF ADDITIONAL SHARES PURSUANT TO GENERAL INSTRUCTION E

Pursuant to General Instruction E of Form S-8, Progyny, Inc. (the “**Registrant**”) is filing this Registration Statement with the Securities and Exchange Commission (the “**Commission**”) to register (i) 5,555,106 additional shares of its common stock under the 2019 Plan, pursuant to the provisions of the 2019 Plan providing for an automatic increase in the number of shares of common stock reserved and available for issuance under the 2019 Plan on January 1, 2021 and that have become available for issuance under the 2019 Plan as a result of the forfeiture, termination, expiration or repurchase of stock options or other stock awards that had been granted under the 2017 Plan, and (ii) 870,543 additional shares of its common stock under the 2019 ESPP, pursuant to the provisions of the 2019 ESPP providing for an automatic increase in the number of shares of common stock reserved and available for issuance under the 2019 ESPP on January 1, 2021. In accordance with the instructional note to Part I of Form S-8 as promulgated by the Commission, the information specified by Part I of the Form S-8 has been omitted from this Registration Statement.

The Registrant previously registered shares of its common stock for issuance under the Plans on a Registration Statement on Form S-8 filed with the Commission on October 25, 2019 (File No. [333-234342](#)), and registered additional shares of its common stock for issuance under the 2019 Plan on a Registration Statement on Form S-8 filed with the Commission on March 11, 2020 (File No. [333-237072](#)). Pursuant to General Instruction E to Form S-8, this Registration Statement hereby incorporates by reference the contents of the Registration Statements referenced above except as set forth below.

PART II

ITEM 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents filed by the Registrant with the Commission are incorporated by reference into this Registration Statement:

(a) [The Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2020, filed with the Commission on March 1, 2021.](#)

(b) The description of the Registrant’s common stock which is contained in a registration statement on [Form 8-A filed on October 22, 2019 \(File No. 001-39100\)](#) under the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), including any amendment or report filed for the purpose of updating such description.

(c) All other reports and documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than Current Reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this Registration Statement from the date of the filing of such reports and documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document that also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 8. EXHIBITS

Exhibit Number	Description	Incorporated by Reference			Filing Date
		Schedule Form	File Number	Exhibit	
4.1	Amended and Restated Certificate of Incorporation of Progyny, Inc.	8-K	001-39100	3.1	October 31, 2019
4.2	Amended and Restated Bylaws of Progyny, Inc.	S-1/A	333-233965	3.3	September 27, 2019
4.3	Form of Registrant’s Common Stock Certificate.	S-1/A	333-233965	4.1	October 15, 2019
5.1*	Opinion of Latham & Watkins LLP.				
23.1*	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.				
23.2*	Consent of Latham & Watkins LLP (included in Exhibit 5.1).				
24.1*	Power of Attorney (included on the signature page of this Form S-8).				
99.1	Progyny, Inc. 2019 Equity Incentive Plan and forms of agreements thereunder.	S-1/A	333- 233965	10.4	October 15, 2019
99.2	Amendment No. 1 to the Progyny, Inc. 2019 Equity Incentive Plan.	10-K	001-39100	10.6	March 1, 2021
99.3	Amendment No. 1 to the Progyny, Inc. 2017 Equity Incentive Plan.	10-K	001-39100	10.6	March 1, 2021
99.4	Progyny, Inc. 2019 Employee Stock Purchase Plan.	S-1/A	333-233965	10.5	October 15, 2019
*	Filed herewith				

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on March 2, 2021.

PROGYNY, INC.

By: /s/ David Schlanger

Name: David Schlanger

Title: Chief Executive Officer and Director

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints David Schlanger and Mark Livingston, and each one of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to sign any registration statement for the same offering covered by this registration statement that is to be effective on filing pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and all post-effective amendments thereto, and to file the same, with all exhibits and schedules thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ David Schlanger</u> David Schlanger	Chief Executive Officer and Director (Principal Executive Officer)	March 2, 2021
<u>/s/ Mark Livingston</u> Mark Livingston	Chief Financial Officer (Principal Financial and Accounting Officer)	March 2, 2021
<u>/s/ Beth Seidenberg, M.D.</u> Beth Seidenberg, M.D.	Director	March 2, 2021
<u>/s/ Malissia Clinton</u> Malissia Clinton	Director	March 2, 2021
<u>/s/ Fred Cohen, M.D., D.Phil.</u> Fred Cohen, M.D., D.Phil.	Director	March 2, 2021
<u>/s/ Kevin Gordon</u> Kevin Gordon	Director	March 2, 2021
<u>/s/ Roger Holstein</u> Roger Holstein	Director	March 2, 2021
<u>/s/ Jeffrey Park</u> Jeffrey Park	Director	March 2, 2021
<u>/s/ Norman Payson, M.D.</u> Norman Payson, M.D.	Director	March 2, 2021
<u>/s/ Cheryl Scott</u> Cheryl Scott	Director	March 2, 2021

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LATHAM & WATKINS^{LLP}

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Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

March 2, 2021

Progyny, Inc.
 1359 Broadway
 New York, New York 10018

Re: Registration Statement on Form S-8; 6,425,649 shares of Common Stock, par value \$0.0001 per share, of Progyny, Inc.

Ladies and Gentlemen:

We have acted as special counsel to Progyny, Inc., a Delaware corporation (the "Company"), in connection with the registration by the Company of an aggregate of 6,425,649 shares of its common stock, \$0.0001 par value per share (the "Shares"), issuable under the Progyny, Inc. 2019 Equity Incentive Plan (the "2019 Plan") and the Progyny, Inc. 2019 Employee Stock Purchase Plan (together with the 2019 Plan, the "Plans"). The Shares are included in a registration statement on Form S-8 under the Securities Act of 1933, as amended (the "Act"), filed with the Securities and Exchange Commission (the "Commission") on March 2, 2021 (the "Registration Statement"). This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or the prospectus forming a part thereof, other than as expressly stated herein with respect to the issuance of the Shares.

LATHAM & WATKINS^{LLP}

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon the foregoing and upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein only as to the General Corporation Law of the State of Delaware, as amended (the "DCGL"), and we express no opinion with respect to any other laws.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Shares shall have been duly registered on the books of the transfer agent and registrar therefor in the name or on behalf of the recipients thereof, and have been issued by the Company for legal consideration in excess of par value in the circumstances contemplated by the Plans, assuming in each case that the individual grants or awards under the Plans are duly authorized by all necessary corporate action and duly granted or awarded and exercised in accordance with the requirements of law and the Plans (and the agreements and awards duly adopted thereunder and in accordance therewith), the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the DGCL.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Securities Act. We consent to your filing this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Latham & Watkins LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Progyny, Inc. 2019 Equity Incentive Plan and 2019 Employee Stock Purchase Plan of our reports dated March 1, 2021, with respect to the consolidated financial statements of Progyny, Inc. and the effectiveness of internal control over financial reporting of Progyny, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2020 filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

New York, New York

March 2, 2021
