

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

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**FORM 8-K/A**  
(Amendment No. 1)

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**CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): November 5, 2014**

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**ACELRX PHARMACEUTICALS, INC.**  
(Exact name of registrant as specified in its charter)

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**DELAWARE**  
(State of incorporation)

**001-35068**  
(Commission File No.)

**41-2193603**  
(IRS Employer Identification No.)

**351 Galveston Drive  
Redwood City, CA 94063**  
(Address of principal executive offices and zip code)

**Registrant's telephone number, including area code: (650) 216-3500**

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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))

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

(b) On November 5, 2014, AcelRx Pharmaceuticals, Inc. (the “Company”) announced the departure of Richard A. King, the Company’s President and Chief Executive Officer (CEO). Mr. King’s separation was not the result of any disagreement with the Company on any matter relating to the Company’s operations, policies or practices.

On December 15, 2014, the Company and Mr. King entered into a separation agreement (the “Separation Agreement”). Under the terms of the Separation Agreement, Mr. King will remain employed with the Company in his current position of CEO, until the earliest to occur of the following events: (i) the date that the Company hires a new Chief Executive Officer; or (ii) the Board requests his resignation; or (iii) March 31, 2015; such date the “Separation Date.” Pursuant to the terms of the Separation Agreement, Mr. King will be entitled to base salary and health benefits continuation for a period of twelve months. Any stock options granted to Mr. King shall cease vesting as of the Separation Date. Under the terms of the Separation Agreement, the Company will extend the exercise period for any of Mr. King’s options which are vested and exercisable as of the Separation Date until December 31, 2015.

A copy of the Separation Agreement is filed with this Form 8-K and attached hereto as Exhibit 10.1. The foregoing description of the Separation Agreement is qualified in its entirety by reference to the full text of the Separation Agreement, which is incorporated by reference hereto.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
10.1	Separation Agreement, dated as of December 15, 2014, by and among AcelRx Pharmaceuticals, Inc. and Richard A. King.

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**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.

Date: December 16, 2014

ACELRX PHARMACEUTICALS, INC.

By: /s/ Timothy E. Morris  
Timothy E. Morris  
Chief Financial Officer

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**INDEX TO EXHIBITS**

<b>Exhibit Number</b>	<b>Description</b>
10.1	Separation Agreement, dated as of December 15, 2014, by and among AcetRx Pharmaceuticals, Inc. and Richard A. King.

December 15, 2014

Mr. Richard King

**Re: Separation Agreement**

Dear Richard:

This letter contains the terms of the separation agreement (the “**Agreement**”) which AcetRx Pharmaceuticals, Inc. (the “**Company**”) is offering to you to assist you in your employment transition.

**1. SEPARATION DATE.** You will remain employed with the Company in your current position of Chief Executive Officer, on the terms and conditions described herein, until the earliest to occur of the following events: **(i)** the date that the Company hires a new Chief Executive Officer; or **(ii)** the Board requests your resignation; or **(iii)** March 31, 2015. Your final date of employment is referred to herein as your “**Separation Date.**” Your separation hereunder shall be deemed a Separation from Service (as those terms are defined in your December 31, 2010 Amended and Restated Offer Letter)(the “**Offer Letter**”).

**2. TRANSITION PERIOD.** From the date of this Agreement through the Separation Date (the “**Transition Period**”), you will continue in your capacity as Chief Executive Officer, you will continue to perform your assigned duties to the best of your abilities, and you will continue to abide by all Company policies and procedures and any agreements between you and the Company. During the Transition Period, you will be paid your current base salary and you will continue to be eligible to participate in the Company’s bonus plan and employee benefit plans pursuant to the terms of those plans.

**3. SEVERANCE BENEFITS.** Pursuant to the terms of your Offer Letter, your employment separation shall be deemed a termination without Cause which is not in connection with a Change in Control. Consequently, if you: **(i)** sign this Agreement; **(ii)** allow the releases contained herein to become effective (as required by your Offer Letter); **(iii)** on or after the Separation Date, you sign and allow to become enforceable the Separation Date Release attached hereto as **Exhibit A**; **(iv)** continue to comply with your obligations under your Proprietary Information Agreement (as defined in your Offer Letter) during the period of time in which you are receiving the Severance Benefits specified herein; and **(v)** resign from the Company’s Board effective on such date as requested by the Board; then the Company will provide you with the following severance benefits:

**(a) Salary Continuation.** The Company will pay you an amount equal to twelve (12) months of your current base salary, subject to applicable tax withholdings, paid (except as set forth below) over the first 12 months following your Separation Date (such 12 month period, the “**Severance Period**”, and such benefit, the “**Salary Continuation**”).

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**(b) COBRA Payments.** If you timely elect continued coverage under the health care continuation laws commonly known as COBRA for yourself and your covered dependents, then the Company shall pay, directly to the COBRA carrier as and when due, the COBRA premiums necessary to continue your health insurance coverage in effect for yourself and your eligible dependents from your termination date until the earliest of (A) the end of the Severance Period, (B) the expiration of your eligibility for the continuation coverage under COBRA, or (C) the date when you become eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the termination date through the earliest of (A) through (C), the “**COBRA Payment Period**”). Notwithstanding the foregoing, if at any time the Company determines that the payment of the COBRA premiums would result in a violation of the nondiscrimination rules of Section 105(h)(2) of the Code or any statute or regulation of similar effect (including but not limited to the 2010 Patient Protection and Affordable Care Act, as amended by the 2010 Health Care and Education Reconciliation Act), then in lieu of providing the COBRA premiums, the Company will instead pay to you on the first day of each month of the remainder of the COBRA Payment Period, a fully taxable cash payment equal to the COBRA premiums for that month, subject to applicable tax withholdings (such amount, the “**Special Severance Payment**”), for the remainder of the COBRA Payment Period. If you become eligible for coverage under another employer’s group health plan or otherwise cease to be eligible for COBRA during the period provided in this clause, you must immediately notify the Company of such event, and all payments and obligations under this clause shall cease.

**(c) Payment Dates.** Notwithstanding the payment schedules described above, no payments will be made prior to the 30<sup>th</sup> day following your Separation Date. On the 30<sup>th</sup> day following your Separation Date, the Company will pay, in a lump sum, the Severance Benefits that would have otherwise been paid on or prior to such date under the original schedule but for the delay while waiting for the 30<sup>th</sup> day in compliance with Section 409A and the effectiveness of the release, with the balance of the Severance Benefits being paid as originally scheduled.

**4. OPTIONS AND RESTRICTED STOCK UNITS (RSUS).** Any stock options granted to you shall cease vesting as of the Separation Date. Similarly, any restricted stock units provided to you shall also cease vesting as of the Separation Date and any restricted stock units which are unvested as of the Separation Date shall terminate and be returned to the applicable plan. Notwithstanding anything to the contrary in your stock option agreements and the governing stock option plan, if you: **(i)** sign this Agreement and allow the releases contained herein to become effective; **(ii)** on or after the Separation Date, you sign and allow to become enforceable the Separation Date Release attached hereto as Exhibit A; and **(iii)** prior to the Separation Date, your employment is not terminated for “Cause” (as defined in the Offer Letter) and you do not resign your employment (except upon the Board’s request); then the Company will extend your exercise period for any options which are vested and exercisable as of the Separation Date until December 31, 2015. You acknowledge that the extension of the exercise period may change the tax treatment accorded to your options; you are encouraged to seek your own tax advice as to your options; and the Company makes no representation as to tax treatment of your options. Except as expressly modified in this Section 4 herein, your stock options shall continue to be governed by your stock option agreements and governing stock option plan, and your restricted stock units shall continue to be governed by your restricted stock purchase agreements.

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**5. UNEMPLOYMENT BENEFITS.** You are entitled to submit a claim for unemployment compensation benefits to the Employment Development Department for the State of California (the “EDD”). Your eligibility to receive unemployment compensation will be determined solely by the EDD. As part of this Agreement, the Company agrees that it will not characterize your separation as a voluntary departure “without good cause,” or as a discharge in connection with “misconduct,” as those terms are defined in California Unemployment Insurance Code Section 1256, and will not in any manner challenge or dispute any claim for unemployment compensation benefits that you may bring.

**6. NO OTHER COMPENSATION OR BENEFITS.** You acknowledge that, except as expressly provided in this Agreement, you have not earned and will not receive from the Company any additional compensation such as base salary, bonus, variable compensation, equity, severance, or benefits on or after the Separation Date, with the exception of any vested right you may have under the express terms of a written ERISA-qualified benefit plan (e.g., 401(k) account) or any vested options (if timely exercised by you). By way of example, but not limitation, you represent and warrant that you have not earned, and are not owed, any commissions, bonus, or incentive compensation that has not already been paid to you.

**7. EXPENSE REIMBURSEMENTS.** The Company will reimburse you for expenses pursuant to its regular business practice provided you submit your final documented expense reimbursement statement reflecting all business expenses you incurred through the Separation Date, within seven (7) days of the Separation Date.

**8. RETURN OF COMPANY PROPERTY.** Within seven (7) days after the Separation Date, you will return to the Company all Company documents (and all copies thereof) and other Company property which you have in your possession or control, including, but not limited to, Company files, clinical data, research and development information, operational and personnel information, sales and marketing information, customer lists, prospect information, notes, drawings, records, plans, forecasts, reports, financial data, payroll information, spreadsheets, studies, analyses, proposals, agreements, specifications, code, software, databases, computer-recorded information, tangible property and equipment (including, but not limited to, computers, facsimile machines, mobile telephones, servers), credit cards, entry cards, identification badges and keys; and any materials of any kind which contain or embody any proprietary or confidential information of the Company (and all reproductions thereof in whole or in part). You agree that you will make a diligent search to locate any such documents, property and information within the required timeframe.

**9. PROPRIETARY INFORMATION OBLIGATIONS.** You acknowledge and reaffirm your continuing obligations under your Proprietary Information Agreement, a copy of which is attached as **Exhibit B** and incorporated herein by reference.

**10. NO DISPARAGEMENT.** You agree not to disparage the Company, and the Company’s officers, directors, employees, shareholders and agents, in any manner likely to be harmful to them or their business, business reputation or personal reputation, and the Company agrees to direct its officers and directors not to disparage you in any manner likely to be harmful to your business, business reputation or personal reputation; provided that both you and the Company may respond accurately and fully to any question, inquiry or request for information when required by legal process.

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**11. NO ADMISSIONS.** The promises and payments in consideration of this Agreement shall not be construed to be an admission of any liability or obligation by either party to the other party and neither party makes any such admission.

**12. COOPERATION AND ASSISTANCE.** You agree that you will not voluntarily provide assistance, information or advice, directly or indirectly (including through agents or attorneys), to any person or entity in connection with any claim or cause of action of any kind brought against the Company, nor shall you induce or encourage any person or entity to bring such claims. However, it will not violate this Agreement if you testify truthfully when required to do so by a valid subpoena or under similar compulsion of law. Further, you agree to voluntarily cooperate with the Company if you have knowledge of facts relevant to any threatened or pending litigation against the Company by making yourself reasonably available for interviews with the Company or its legal counsel, for preparing for and providing deposition testimony, and for preparing for and providing trial testimony. Nothing in this Agreement shall affect any rights to indemnity and defense costs that you may have pursuant to your Indemnification Agreement with the Company dated 21 November 2014 (the “**Indemnification Agreement**”).

### **13. RELEASE OF CLAIMS**

**(a) General Release.** In exchange for the consideration provided to you under this Agreement to which you would not otherwise be entitled, you hereby generally and completely release the Company and its current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the “**Released Parties**”) from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date you sign this Agreement (collectively, the “**Released Claims**”).

**(b) Scope of Release.** The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to your employment with the Company, or the termination of that employment; (ii) all claims related to your compensation or benefits from the Company, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (iii) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (v) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys’ fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Age Discrimination in Employment Act of 1967 (as amended) (the “**ADEA**”), the federal Americans with Disabilities Act of 1990, the California Labor Code (as amended), and the California Fair Employment and Housing Act (as amended).

**(c) ADEA Waiver.** You acknowledge that you are knowingly and voluntarily waiving and releasing any rights you may have under the ADEA, and that the consideration given for the waiver and release in this Section 14 is in addition to anything of value to which you are already entitled. You further acknowledge that you have been advised, as required by the ADEA, that: (i) your waiver and release do not apply to any rights or claims that may arise after the date that you sign this Agreement; (ii) you should consult with an attorney



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prior to signing this Agreement (although you may choose voluntarily not to do so); (iii) you have twenty-one (21) days in which to consider this Agreement (although you may choose voluntarily to sign it earlier); (iv) you have seven (7) days following the date you sign this Agreement to revoke the Agreement (by providing written notice of your revocation to the Company); and (v) this Agreement will not be effective until the date upon which the revocation period has expired, which will be the eighth day after the date that this Agreement is signed by you provided that you do not revoke it (the “**Effective Date**”).

**(d) Waiver of Unknown Claims.** In giving the releases set forth in this Agreement, which include claims which may be unknown to you at present, you acknowledge that you have read and understand Section 1542 of the California Civil Code which reads as follows: “**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**” You hereby expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction with respect to your release of claims herein, including but not limited to the release of unknown and unsuspected claims.

**(e) Excluded Claims.** Notwithstanding the foregoing, the following are not included in the Released Claims (the “**Excluded Claims**”): (i) any rights or claims for indemnification you may have pursuant to the Indemnification Agreement or the charter, bylaws, or operating agreements of the Company, or under applicable law; (ii) any rights which are not waivable as a matter of law; and (iii) any claims for breach of this Agreement. In addition, nothing in this Agreement prevents you from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, the California Department of Fair Employment and Housing, or any other government agency, except that you acknowledge and agree that you are hereby waiving your right to any monetary benefits in connection with any such claim, charge or proceeding. You hereby represent and warrant that, other than the Excluded Claims, you are not aware of any claims you have or might have against any of the Released Parties that are not included in the Released Claims.

**13. DISPUTE RESOLUTION.** To ensure rapid and economical resolution of any disputes regarding this Agreement, the parties hereby agree that any and all claims, disputes or controversies of any nature whatsoever arising out of, or relating to, this Agreement, or its interpretation, enforcement, breach, performance or execution, your employment with the Company, or the termination of such employment, shall be resolved, to the fullest extent permitted by law, by final, binding and confidential arbitration in San Francisco, CA conducted before a single arbitrator by JAMS, Inc. (“**JAMS**”) or its successor, under the then applicable JAMS arbitration rules. **The parties each acknowledge that by agreeing to this arbitration procedure, they waive the right to resolve any such dispute, claim or demand through a trial by jury or judge or by administrative proceeding.** You will have the right to be represented by legal counsel at any arbitration proceeding. The arbitrator shall: (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be available under applicable law in a court proceeding; and (b) issue a written statement signed by the arbitrator regarding the disposition of each claim and the relief, if any, awarded as to each claim, the reasons for the award, and the arbitrator’s essential findings and conclusions on which the award is based. The arbitrator, and not a court, shall also be authorized to determine whether the provisions of this paragraph apply to a dispute, controversy,

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or claim sought to be resolved in accordance with these arbitration procedures. Nothing in this Agreement is intended to prevent either you or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any arbitration.

**14. MISCELLANEOUS.** This Agreement constitutes the complete, final and exclusive embodiment of the entire agreement between you and the Company with regard to the subject matter hereof. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other agreements, promises, warranties or representations concerning its subject matter. This Agreement may not be modified or amended except in a writing signed by both you and a duly authorized officer of the Company. This Agreement will bind the heirs, personal representatives, successors and assigns of both you and the Company, and inure to the benefit of both you and the Company, their heirs, successors and assigns. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination shall not affect any other provision of this Agreement and the provision in question shall be modified so as to be rendered enforceable in a manner consistent with the intent of the parties insofar as possible under applicable law. This Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to conflicts of law principles. Any ambiguity in this Agreement shall not be construed against either party as the drafter. Any waiver of a breach of this Agreement, or rights hereunder, shall be in writing and shall not be deemed to be a waiver of any successive breach or rights hereunder. This Agreement may be executed in counterparts which shall be deemed to be part of one original, and facsimile signatures shall be equivalent to original signatures.

If this Agreement is acceptable to you, please sign and date below and return the fully signed Agreement to me within 21 days of your receipt of this Agreement. The Company's offer contained herein will automatically expire if we do not receive the fully signed Agreement from you within this timeframe.

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Thank you for your efforts on behalf of the Company and I wish you the best in your future endeavors.

Sincerely,

**AcelRx Pharmaceuticals, Inc.**

By: /s/ Adrian Adams

**Adrian Adams**  
**Chairman of the Board**

**UNDERSTOOD AND AGREED:**

/s/ Richard King

Richard King

December 15, 2014

Date

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EXHIBIT A

SEPARATION DATE RELEASE

In exchange for the consideration provided to me under this Agreement to which I would not otherwise be entitled, I hereby generally and completely release the Company and its current and former directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, parent and subsidiary entities, insurers, affiliates, and assigns (collectively, the “**Released Parties**”) from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to or on the date I sign this Agreement (collectively, the “**Released Claims**”).

The Released Claims include, but are not limited to: (i) all claims arising out of or in any way related to my employment with the Company, or the termination of that employment; (ii) all claims related to my compensation or benefits from the Company, including salary, bonuses, commissions, vacation pay, expense reimbursements, severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (iii) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (iv) all tort claims, including claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (v) all federal, state, and local statutory claims, including claims for discrimination, harassment, retaliation, attorneys’ fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Age Discrimination in Employment Act of 1967 (as amended) (the “**ADEA**”), the federal Americans with Disabilities Act of 1990, the California Labor Code (as amended), and the California Fair Employment and Housing Act (as amended).

I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA, and that the consideration given for the waiver and release in this Section 14 is in addition to anything of value to which I am already entitled. I further acknowledge that I have been advised, as required by the ADEA, that: (i) my waiver and release do not apply to any rights or claims that may arise after the date that I sign this Separation Date Release; (ii) I should consult with an attorney prior to signing this Separation Date Release (although I may choose voluntarily not to do so); (iii) I have twenty-one (21) days in which to consider this Separation Date Release (although I may choose voluntarily to sign it earlier); (iv) I have seven (7) days following the date I sign this Separation Date Release to revoke the Separation Date Release (by providing written notice of my revocation to the Company); and (v) this Separation Date Release will not be effective until the date upon which the revocation period has expired, which will be the eighth day after the date that this Separation Date Release is signed by me provided that I do not revoke it (the “**Effective Date**”).

In giving the releases set forth in this Separation Date Release, which include claims which may be unknown to you at present, I acknowledge that I have read and understand Section 1542 of the California Civil Code which reads as follows: “**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or**

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**her settlement with the debtor.”** I hereby expressly waive and relinquish all rights and benefits under that section and any law or legal principle of similar effect in any jurisdiction with respect to my release of claims herein, including but not limited to the release of unknown and unsuspected claims.

Notwithstanding the foregoing, the following are not included in the Released Claims (the “**Excluded Claims**”): (i) any rights or claims for indemnification I may have pursuant to any written indemnification agreement with the Company to which I am a party, the charter, bylaws, or operating agreements of the Company, or under applicable law; (ii) any rights which are not waivable as a matter of law; and (iii) any claims for breach of this Agreement. In addition, nothing in this Separation Date Release prevents me from filing, cooperating with, or participating in any proceeding before the Equal Employment Opportunity Commission, the Department of Labor, the California Department of Fair Employment and Housing, or any other government agency, except that I acknowledge and agree that I am hereby waiving my right to any monetary benefits in connection with any such claim, charge or proceeding. I hereby represent and warrant that, other than the Excluded Claims, I am not aware of any claims I have or might have against any of the Released Parties that are not included in the Released Claims.

**UNDERSTOOD AND AGREED:**

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Richard King

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Date

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**EXHIBIT B**

**PROPRIETARY INFORMATION AGREEMENT**

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ACELRX PHARMACEUTICALS, INC.

CONFIDENTIAL INFORMATION AND  
INVENTION ASSIGNMENT AGREEMENT

As a condition of my becoming employed (or my employment being continued) by or retained as a consultant (or my consulting relationship being continued) by AcelRx Pharmaceuticals, Inc., a Delaware corporation (“AcelRx”) or any of its current or future subsidiaries, affiliates, successors or assigns (collectively, the “Company”), and in consideration of my employment or consulting relationship with the Company and my receipt of the compensation now and hereafter paid to me by the Company, I agree to the following:

1. **Employment or Consulting Relationship.** I understand and acknowledge that this Agreement does not alter, amend or expand upon any rights I may have to continue in the employ of, or in a consulting relationship with, or the duration of my employment or consulting relationship with, the Company under any existing agreements between the Company and me or under applicable law. Any employment or consulting relationship between the Company and me, whether commenced prior to or upon the date of this Agreement, shall be referred to herein as the “Relationship.”

2. **Duties.** I will perform for the Company such duties as may be designated by the Company from time to time. During the Relationship, I will devote my best efforts to the interests of the Company and will not engage in other employment or in any activities detrimental to the best interests of the Company without the prior written consent of the Company.

3. **At-Will Relationship.** I understand and acknowledge that my Relationship with the Company is and shall continue to be at-will, as defined under applicable law, meaning that either I or the Company may terminate the Relationship at any time for any reason or no reason, without further obligation or liability.

4. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my Relationship with the Company and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company to the extent necessary to perform my obligations to the Company under the Relationship, or to disclose to any person, firm, corporation or other entity without written authorization of the Board of Directors of the Company, any Confidential Information of the Company which I obtain or create. I further agree not to make copies of such Confidential Information except as authorized by the Company. I understand that “Confidential Information” means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, suppliers, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the Relationship), prices and costs, markets, software, developments, inventions, laboratory notebooks, processes, formulas, technology,

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designs, drawings, engineering, hardware configuration information, marketing, licenses, finances, budgets or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment or created by me during the period of the Relationship, whether or not during working hours. I understand that Confidential Information includes, but is not limited to, information pertaining to any aspect of the Company's business which is either information not known by actual or potential competitors of the Company or other third parties not under confidentiality obligations to the Company, or is otherwise proprietary information of the Company or its customers or suppliers, whether of a technical nature or otherwise. I further understand that Confidential Information does not include any of the foregoing items which has become publicly and widely known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Prior Obligations.** I represent that my performance of all terms of this Agreement as an employee or consultant of the Company has not breached and will not breach any agreement to keep in confidence proprietary information, knowledge or data acquired by me prior or subsequent to the commencement of my Relationship with the Company, and I will not disclose to the Company or use any inventions, confidential or non-public proprietary information or material belonging to any current or former client or employer or any other party. I will not induce the Company to use any inventions, confidential or non-public proprietary information, or material belonging to any current or former client or employer or any other party. I acknowledge and agree that I have listed on Exhibit D all agreements (e.g., non-competition agreements, non-solicitation of customers agreements, non-solicitation of employees agreements, confidentiality agreements, inventions agreements, etc.) with a current or former employer, or any other person or entity, that may restrict my ability to accept employment with the Company or my ability as an employee or consultant to recruit or engage customers or service providers on behalf of the Company, or otherwise relate to or restrict my ability to perform my duties as an employee of the Company or any obligation I may have to the Company.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive confidential or proprietary information from third parties subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

## 5. **Inventions.**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing with particularity all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to the commencement of the Relationship (collectively referred to as "Prior Inventions"), which belong solely to me or belong to me jointly with another, which relate in any way to any of the Company's proposed businesses, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If, in



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the course of my Relationship with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license (with the right to sublicense) to make, have made, copy, modify, make derivative works of, use, sell and otherwise distribute such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to AcclRx, will hold in trust for the sole right and benefit of AcclRx, and hereby assign to AcclRx, or its designee, all my right, title and interest throughout the world in and to any and all inventions, original works of authorship, developments, concepts, know-how, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of my Relationship with the Company (collectively referred to as "Inventions"), except as provided in Section 5(e) below. I further acknowledge that all Inventions which are made by me (solely or jointly with others) within the scope of and during the period of my Relationship with the Company are "works made for hire" (to the greatest extent permitted by applicable law) and are compensated by my salary (if I am an employee) or by such amounts paid to me under any applicable consulting agreement or consulting arrangements (if I am a consultant), unless regulated otherwise by the mandatory law of the state of California.

(c) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my Relationship with the Company. The records may be in the form of notes, sketches, drawings, flow charts, electronic data or recordings, laboratory notebooks, and any other format. The records will be available to and remain the sole property of the Company at all times. I agree not to remove such records from the Company's place of business except as expressly permitted by Company policy which may, from time to time, be revised at the sole election of the Company for the purpose of furthering the Company's business. I agree to return all such records (including any copies thereof) to AcclRx at the time of termination of my Relationship with the Company as provided for in Section 6.

(d) **Patent and Copyright Rights.** I agree to assist AcclRx, or its designee, at its expense, in every proper way to secure AcclRx's, or its designee's, rights in the Inventions and any copyrights, patents, trademarks, mask work rights, moral rights, or other intellectual property rights relating thereto in any and all countries, including the disclosure to AcclRx or its designee of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, recordations, and all other instruments which AcclRx or its designee shall deem necessary in order to apply for, obtain, maintain and transfer such rights, or if not transferable, waive such rights, and in order to assign and convey to AcclRx or its designee, and any successors, assigns and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement until the expiration of the last such intellectual property

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right to expire in any country of the world. If AcclRx or its designee is unable because of my mental or physical incapacity or unavailability or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents, copyright, mask works or other registrations covering Inventions or original works of authorship assigned to AcclRx or its designee as above, then I hereby irrevocably designate and appoint AcclRx and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance or transfer of letters patent, copyright or other registrations thereon with the same legal force and effect as if originally executed by me. I hereby waive and irrevocably quitclaim to AcclRx or its designee any and all claims, of any nature whatsoever, which I now or hereafter have for infringement of any and all proprietary rights assigned to AcclRx or such designee.

(e) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to AcclRx do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as Exhibit B). I will advise the Company promptly in writing of any inventions that I believe meet such provisions and are not otherwise disclosed on Exhibit A.

6. **Company Property: Returning Company Documents.** I acknowledge and agree that I have no expectation of privacy with respect to the Company's telecommunications, networking or information processing systems (including, without limitation, stored company files, e-mail messages and voice messages) and that my activity and any files or messages on or using any of those systems may be monitored at any time without notice. I further agree that any property situated on the Company's premises and owned by the Company, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Company personnel at any time with or without notice. I agree that, at the time of termination of my Relationship with the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, laboratory notebooks, materials, flow charts, equipment, other documents or property, or reproductions of any of the aforementioned items developed by me pursuant to the Relationship or otherwise belonging to the Company, its successors or assigns. In the event of the termination of the Relationship, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit C; however, my failure to sign and deliver the Termination Certificate shall in no way diminish my continuing obligations under this Agreement.

**7. Notification to Other Parties.**

(a) **Employees.** In the event that I leave the employ of the Company, I hereby consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

(b) **Consultants.** I hereby grant consent to notification by the Company to any other parties besides the Company with whom I maintain a consulting relationship, including parties with whom such relationship commences after the effective date of this Agreement, about my rights and obligations under this Agreement.

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8. **Solicitation of Employees, Consultants and Other Parties.** I agree that during the term of my Relationship with the Company, and for a period of twelve (12) months immediately following the termination of my Relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees or consultants to terminate their relationship with the Company, or attempt to solicit, induce, recruit, encourage or take away employees or consultants of the Company, either for myself or for any other person or entity. Further, during my Relationship with the Company and at any time following termination of my Relationship with the Company for any reason, with or without cause, I shall not use any Confidential Information of the Company to attempt to negatively influence any of the Company's clients or customers from purchasing Company products or services or to solicit or influence or attempt to influence any client, customer or other person either directly or indirectly, to direct his or its purchase of products and/or services to any person, firm, corporation, institution or other entity in competition with the business of the Company.

9. **Representations and Covenants.**

(a) **Facilitation of Agreement.** I agree to execute promptly any proper oath or verify any proper document required to carry out the terms of this Agreement upon the Company's written request to do so.

(b) **Conflicts.** I represent that my performance of all the terms of this Agreement does not and will not breach any agreement I have entered into, or will enter into with any third party, including without limitation any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to commencement of my Relationship with the Company. I agree not to enter into any written or oral agreement that conflicts with the provisions of this Agreement.

(c) **Voluntary Execution.** I certify and acknowledge that I have carefully read all of the provisions of this Agreement and that I understand and will fully and faithfully comply with such provisions.

10. **General Provisions.**

(a) **Governing Law.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California, without giving effect to the principles of conflict of laws.

(b) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by both parties. Any subsequent change or changes in my duties, obligations, rights or compensation will not affect the validity or scope of this Agreement.

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(c) **Severability.** If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) **Successors and Assigns.** This Agreement will be binding upon my heirs, executors, administrators and other legal representatives, and my successors and assigns, and will be for the benefit of the Company, its successors, and its assigns.

(e) **Survival.** The provisions of this Agreement shall survive the termination of the Relationship and the assignment of this Agreement by the Company to any successor in interest or other assignee.

(f) **Remedies.** I acknowledge and agree that violation of this Agreement by me may cause the Company irreparable harm, and therefore agree that the Company will be entitled to seek extraordinary relief in court, including but not limited to temporary restraining orders, preliminary injunctions and permanent injunctions without the necessity of posting a bond or other security and in addition to and without prejudice to any other rights or remedies that the Company may have for a breach of this Agreement.

(g) **ADVICE OF COUNSEL.** I ACKNOWLEDGE THAT, IN EXECUTING THIS AGREEMENT, I HAVE HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND I HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

[Signature Page Follows]

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The parties have executed this Agreement on the respective dates set forth below:

COMPANY:

EMPLOYEE:

**ACELRX PHARMACEUTICALS, INC.**

Richard King, an Individual:

By: /s/ Thomas A. Schreck

/s/ Richard King  
Signature

Name: Thomas A. Schreck

Title: Chairman

Date: March 10, 2010

Date: 3/10/2010

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNATURE PAGE TO CONFIDENTIAL INFORMATION AND  
INVENTION ASSIGNMENT AGREEMENT OF  
ACELRX PHARMACEUTICALS, INC.**

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EXHIBIT A

**LIST OF PRIOR INVENTIONS  
AND ORIGINAL WORKS OF AUTHORSHIP  
EXCLUDED UNDER SECTION 5**

Title

Date

Identifying Number  
or Brief Description

No inventions or improvements

Additional Sheets Attached

Signature of Employee/Consultant: \_\_\_\_\_

Print Name of Employee/Consultant: \_\_\_\_\_

Date: \_\_\_\_\_

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EXHIBIT B

Section 2870 of the California Labor Code is as follows:

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

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EXHIBIT C

**TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, laboratory notebooks, flow charts, materials, equipment, other documents or property, or copies or reproductions of any aforementioned items belonging to AcclRx Pharmaceuticals, Inc., its subsidiaries, affiliates, successors or assigns (together the "Company").

I further certify that I have complied with all the terms of the Company's Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from the date of this Certificate, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees or consultants to terminate their relationship with the Company, or attempt to solicit, induce, recruit, encourage or take away employees or consultants of the Company, either for myself or for any other person or entity. Further, I shall not at any time use any Confidential Information of the Company to negatively influence any of the Company's clients or customers from purchasing Company products or services or to solicit or influence or attempt to influence any client, customer or other person either directly or indirectly, to direct his or its purchase of products and/or services to any person, firm, corporation, institution or other entity in competition with the business of the Company.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Employee's Signature)

\_\_\_\_\_  
(Type/Print Employee's Name)



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EXHIBIT D

**LIST OF PRIOR AGREEMENTS  
EXCLUDED UNDER SECTION 4(b)**

No prior agreements

Additional Sheets Attached

Signature of Employee/Consultant: \_\_\_\_\_

Print Name of Employee/Consultant: \_\_\_\_\_

Date: