

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

**FORM S-8**

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

**DigiPath, Inc.**

(Exact name of registrant as specified in its charter)

**Nevada**

(State or other jurisdiction of Incorporation or organization)

**27-3601979**

(I.R.S. Employer Identification No.)

**6450 Cameron Street, Suite 113, Las Vegas, Nevada**

(Address of principal executive offices)

**89118**

(Zip code)

**DigiPath, Inc. Amended and Restated 2012 Stock Incentive Plan**

(Full title of the plan)

**Todd Peterson  
Chief Financial Officer  
DigiPath, Inc.**

**6450 Cameron Street, Suite 113, Las Vegas, Nevada 89118  
(702) 527-2060**

(Name, address and Telephone number of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check One):

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee
Common Stock, par value \$0.001 per share	11,500,000 shares (1)	\$ 0.19	\$ 2,185,000	\$ 220.03

(1) Pursuant to Rule 416(a), this Registration Statement shall also cover any additional shares of Registrant's Common Stock that become issuable under the plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of Registrant's Common Stock.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h). The price per share and aggregate offering price are based upon the average of the high and low prices of Registrant's Common Stock on July 11, 2016 as reported on the OTCQB.

**PART I**  
**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The documents containing the information specified in Part I will be sent or given to employees and consultants as specified by Rule 428(b)(1) of the Securities Act. In accordance with the instructions to Part I of Form S-8, such documents will not be filed with the Securities Exchange Commission (“SEC”) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 of the Securities Act. These documents and the documents incorporated by reference pursuant to Item 3 of Part II of this registration statement, taken together, constitute the prospectus as required by Section 10(a) of the Securities Act.

**PART II**  
**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Certain Documents by Reference.**

The following documents previously filed by DigiPath, Inc. (the “Company”) with the SEC are incorporated by reference into this Registration Statement:

- The Company’s Annual Report on Form 10-K for the fiscal year ended September 30, 2015, filed with the SEC on January 13, 2016.
- The Company’s Quarterly Report on Form 10-Q for the period ended December 31, 2015, filed with the SEC on February 19, 2016.
- The Company’s Quarterly Report on Form 10-Q for the period ended March 31, 2016, filed with the SEC on May 16, 2016.
- The Company’s Current Reports on Form 8-K filed with the SEC on March 21, 2016 and June 27, 2016.
- The description of the Company’s Common Stock which is contained in a registration statement on Form 10 originally filed with the SEC on January 12, 2011, and amended on January 26, 2011, March 29, 2011, April 29, 2011, June 3, 2011, June 27, 2011 and July 15, 2011.

In addition, all documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment 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 in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated by reference in this Registration Statement shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in this Registration Statement or in any subsequently filed document which is also incorporated by reference modifies or supersedes such statement. Any earlier statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

**Item 4. Description of Securities.**

Not Applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not Applicable.

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**Item 6. Indemnification of Directors and Officers.**

We are a Nevada corporation. The Nevada Revised Statutes and certain provisions of our bylaws under certain circumstances provide for indemnification of our officers, directors and controlling persons against liabilities which they may incur in such capacities. A summary of the circumstances in which such indemnification is provided for is contained herein, but this description is qualified in its entirety by reference to our bylaws and to the statutory provisions.

In general, any officer, director, employee or agent may be indemnified against expenses, fines, settlements or judgments arising in connection with a legal proceeding to which such person is a party, if that person is not liable due to conduct that constituted a breach of his or her fiduciary duties and such breach involved intentional misconduct, fraud or a knowing violation of law, and that person's actions were in good faith, were believed to be in our best interest, and were not unlawful. Indemnification may not be made for any claim as to which the person seeking indemnity has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals, to be liable to our company unless the court in which the action or suit was brought or another court of competent jurisdiction determines that in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as such court deems proper. Unless such person is successful upon the merits in such an action, indemnification may be awarded only after a determination by independent decision of our board of directors, by legal counsel, or by a vote of our stockholders, that the applicable standard of conduct was met by the person to be indemnified. Under our bylaws, we will advance expenses incurred by officers and directors who are parties to or are threatened to made parties to any threatened, pending or completed action by reason of the fact that such person was serving in such capacity, prior to the disposition of such action and promptly following request therefor, upon receipt of an undertaking by or on behalf of such person to repay such advances if it should be determined ultimately that such person is not entitled to indemnification.

The circumstances under which indemnification is granted in connection with an action brought on our behalf is generally the same as those set forth above; however, with respect to such actions, indemnification is granted only with respect to expenses actually incurred in connection with the defense or settlement of the action. Indemnification may also be granted pursuant to the terms of agreements which may be entered in the future or pursuant to a vote of stockholders or directors. The Nevada Revised Statutes also grant us the power to purchase and maintain insurance which protects our officers and directors against any liabilities incurred in connection with their service in such a position, and we have obtained such a policy.

**Item 7. Exemption From Registration Claimed.**

Not Applicable.

**Item 8. Exhibits.**

<b><u>Exhibit Number</u></b>	
5.1	Opinion of Fox Rothschild LLP
10.1	DigiPath, Inc. Amended and Restated 2012 Stock Incentive Plan (incorporated by reference to Exhibit 10.1 to Registrant's Current Report on Form 8-K filed with the SEC on June 27, 2016)
10.2	Form of Stock Option Grant Notice for grants under the Amended and Restated 2012 Stock Incentive Plan (incorporated by reference to Exhibit 10.2 to Registrant's Current Report on Form 8-K filed with the SEC on June 27, 2016)
10.3	Form of Stock Option Grant Notice for grants under the Amended and Restated 2012 Stock Incentive Plan (incorporated by reference to Exhibit 10.3 to Registrant's Current Report on Form 8-K filed with the SEC on June 27, 2016)
23.1	Consent of Anton & Chia, LLP
23.2	Consent of Fox Rothschild LLP (included in Exhibit 5.1 to this Registration Statement)
24.1	Power of Attorney (included as part of the signature page)

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**Item 9. Undertakings.**

**1.** The undersigned Registrant hereby undertakes:

**(a)** To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

**(i)** To include any prospectus required by section 10(a)(3) of the Securities Act;

**(ii)** To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

**(iii)** To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*Provided, however,* that paragraphs (a)(i) and (a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

**(b)** That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

**(c)** To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

**(d)** That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

**(i)** Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;

**(ii)** Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;

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**(iii)** The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

**(iv)** Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

**2.** The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

**3.** Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

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## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Las Vegas, State of Nevada, on July 13, 2016.

### DigiPath, Inc.

By: /s/ Todd Peterson

Todd Peterson, Chief Financial Officer

## POWER OF ATTORNEY

**KNOW ALL PERSONS BY THESE PRESENTS**, that each person whose signature appears below constitutes and appoints Todd Denkin and Todd Peterson, and each or any one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in his 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 file the same, with all exhibits 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 might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or substitute, 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/ Joseph J. Bianco</u> Joseph J. Bianco	Chief Executive Officer and Director (Principal Executive Officer)	July 13, 2016
<u>/s/ Todd Denkin</u> Todd Denkin	President, Chief Operating Officer and Director	July 13, 2016
<u>/s/ Todd Peterson</u> Todd Peterson	Chief Financial Officer and Secretary (Principal Financial Officer)	July 13, 2016

## EXHIBIT INDEX

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Fox Rothschild LLP  
101 Park Avenue, Suite 1700  
New York, NY 10178

July 13, 2016

DigiPath, Inc.  
6450 Cameron Street, Suite 113  
Las Vegas, Nevada 89118

Gentlemen:

You have requested our opinion in connection with the filing by DigiPath, Inc. (the "Company") of a Registration Statement on Form S-8 (the "Registration Statement") with the Securities and Exchange Commission covering the offering of an aggregate of 11,500,000 shares (the "Shares") of the Company's common stock, \$0.001 par value per share ("Common Stock"), pursuant to the Company's Amended and Restated 2012 Stock Incentive Plan (the "Plan").

In connection with this opinion, we have examined the Registration Statement, the Plan, the Company's Articles of Incorporation and Bylaws, as currently in effect, resolutions adopted by the Board of Directors of the Company pertaining to the approval of the Plan and the issuance of the Shares, and such other documents, records, certificates, memoranda and instruments as we have deemed necessary as a basis for this opinion. We have assumed the genuineness and authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies thereof, and the due execution and delivery of all documents where due execution and delivery are a prerequisite to the effectiveness thereof.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plan, will be validly issued, fully paid, and nonassessable.

Our opinion expressed herein is limited to the laws of the State of Nevada.

This opinion letter has been prepared for your use in connection with the Registration Statement and speaks as of the date hereof, and we assume no obligation to advise you of any changes in the foregoing subsequent to the date hereof.

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Very truly yours,

Fox Rothschild LLP

*/s/ Fox Rothschild LLP*

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*Consent of Independent Registered Public Accounting Firm*

We hereby consent to the incorporation by reference in the Prospectus constituting a part of this Registration Statement on Form S-8 of our report dated January 13, 2016, relating to the consolidated financial statements of DigiPath, Inc. appearing in the entity's Annual Report on Form 10-K for the year ended September 30, 2015.

We also consent to the reference to us under the caption "Experts" in the Prospectus.

*/s/ Anton & Chia, LLP*

Newport Beach, CA  
July 13, 2016

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