

Lifevantage Corp
Form S-8
June 23, 2011

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As filed with the Securities and Exchange Commission on June 23, 2011

Registration No. 333-

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM S-8
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933
LIFEVANTAGE CORPORATION
(Exact Name of Registrant as Specified in Charter)**

Colorado (State or other jurisdiction of incorporation or organization) **90-0224471** (IRS Employer Identification No.)

**11545 W. Bernardo Court, Suite 301
San Diego, California 92127**
(Address of Principal Executive Offices)

**Lifevantage Corporation
2010 Long-Term Incentive Plan**
(Full title of the plan)

**Douglas C. Robinson
Chief Executive Officer
Lifevantage Corporation
11545 W. Bernardo Court, Suite 301
San Diego, CA 92127
(858) 312-8000**

(Name, address, and telephone number, including area code, of agent for service)

Copies to:

**Kirt W. Shuldberg, Esq.
Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
(858) 720-8900**

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.

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

CALCULATION OF REGISTRATION FEE

| Title of Securities to be | Amount to be registered | Proposed maximum offering price per | Proposed maximum | Amount of Registration |
|---------------------------|-------------------------|-------------------------------------|------------------|------------------------|
| | | | | |

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| | | | | |
|---|----------------------------|---------------------------|---|------------------|
| registered Common Stock, \$0.0001 par value per share | (1) 3,500,000 shares | share (2) \$ 1.1422(2) | aggregate offering price \$ 3,997,570.40(2) | fee \$ 464.12 |
|---|----------------------------|---------------------------|---|------------------|

(1) Pursuant to Rules 416 and 457 under the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional shares of common stock that may become issuable pursuant to the anti-dilution adjustment provisions of the Lifevantage Corporation 2010 Long-Term Incentive Plan.

(2) (i) Estimated pursuant to Rule 457(h) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee, on the basis of the exercise prices of each outstanding stock option. The exercise price per share represents the weighted average of these exercise prices.

(ii) Estimated pursuant to Rules 457(c) and 457(h) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee, based on the average of the high and low prices of Registrant's common stock as reported on the OTC Bulletin Board on June 20, 2011, as set forth in the following table:

(iii) Represents the weighted average of (i) and (ii) above.

| Type of Shares | Number of Shares | Exercise Price Per Share (\$) | Maximum Aggregate Offering Price (\$) |
|---|-----------------------------|--|--|
| (i) Shares subject to issuance upon exercise of stock options outstanding under the Lifevantage Corporation 2010 Long-Term Incentive Plan | 2,412,000 | \$ 1.0642 | \$ 2,566,850.40 |
| (ii) Shares reserved for issuance for other awards under the Lifevantage Corporation 2010 Long-Term Incentive Plan | 1,088,000 | \$ 1.3150 | \$ 1,430,720.00 |
| TOTAL | 3,500,000 | \$ 1.1422(iii) | \$ 3,997,570.40 |

The Registration Statement shall become effective upon filing in accordance with Rule 462(a) under the Securities Act of 1933.

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EXPLANATORY NOTES

This Registration Statement on Form S-8 is filed by Lifevantage Corporation, a Colorado corporation (the Registrant or Company), relating to 3,500,000 shares of the Company s common stock, par value \$0.0001 per share, issuable to employees, officers, directors and consultants of the Company under the Lifevantage Corporation 2010 Long-Term Incentive Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Information required by Part I of Form S-8 to be contained in a prospectus meeting the requirements of Section 10(a) of the Securities Act of 1933, as amended (the Securities Act), is not required to be filed with the Securities and Exchange Commission and is omitted from this Registration Statement in accordance with the explanatory note to Part I of Form S-8 and Rule 428, as promulgated under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents and information previously filed by the Registrant with the Securities and Exchange Commission are hereby incorporated by reference in this Registration Statement:

- (a) The Registrant s latest Annual Report on Form 10-K for the fiscal year ended June 30, 2010, filed on September 15, 2010.
- (b) All reports filed by the Registrant pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act) since the end of the fiscal year covered by the Registrant s latest Annual Report; and
- (c) The description of the Registrant s common stock contained in the Registrant s Registration Statement on Form SB-2 filed under the Securities Act on December 17, 2007, including any amendment or report filed for the purpose of updating such description.

In addition, all documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, after the date of this Registration Statement and 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, will be incorporated by reference into this Registration Statement from the date of filing of such 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 the purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or deemed to be incorporated by reference herein modifies or supersedes such statement. Any 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.

Section 7-108-402 of the Colorado Business Corporation Act (the Act) provides, generally, that the articles of incorporation of a Colorado corporation may contain a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director; except that any such provision may not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its shareholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) acts specified in Section 7-108-403 (concerning unlawful distribution), or (iv) any transaction from which a director directly or indirectly derived an improper personal benefit. The articles of incorporation may not eliminate or limit the liability of a director for any act or omission occurring prior to the date on which the provision becomes effective. The Registrant's articles of incorporation contain a provision eliminating liability as permitted by Section 7-108-402 of the Act.

Section 7-109-103 of the Act provides that a Colorado corporation must indemnify a person (i) who is or was a director of the corporation or an individual who, while serving as a director of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee or fiduciary or agent of another corporation or other entity or of any employee benefit plan (a Director) or officer of the corporation and (ii) who was wholly successful, on the merits or otherwise, in defense of any proceeding in which the Director was a party, against reasonable expenses incurred by him or her in connection with the proceeding, unless such indemnity is limited by the corporation's articles of incorporation. The Registrant's articles of incorporation do not contain any such limitation.

Section 7-109-102 of the Act provides, generally, that a Colorado corporation may indemnify a person made a party to a proceeding because the person is or was a Director, against any obligation incurred with respect to a proceeding, to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred in the proceeding if the Director conducted himself or herself in good faith and the Director reasonably believed, in the case of conduct in an official capacity with the corporation, that the Director's conduct was in the corporation's best interests and, in all other cases, the Director's conduct was at least not opposed to the corporation's best interests and, with respect to any criminal proceedings, the Director had no reasonable cause to believe that his or her conduct was unlawful. The Registrant's bylaws provide for such indemnification. A corporation may not indemnify a Director in connection with any proceeding by or in the right of the corporation in which the Director was adjudged liable to the corporation or, in connection with any other proceeding charging the Director derived an improper personal benefit, whether or not involving actions in an official capacity, in which proceeding the Director was judged liable on the basis that he derived an improper personal benefit. Any indemnification permitted in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

Under Section 7-109-107 of the Act, unless otherwise provided in its articles of incorporation, a Colorado corporation may indemnify an officer, employee, fiduciary, or agent of the corporation to the same extent as a Director and may indemnify such non-Director to a greater extent, if not inconsistent with public policy and if provided for by its bylaws, general or specific action of its board of directors or shareholders, or contract. The Registrant's articles of incorporation and bylaws allow indemnification of its officers, employees, fiduciaries and agents to the same extent, or greater extent if not inconsistent with public policy, as the Registrant's directors.

Section 7-109-104 of the Act authorizes a Colorado corporation to pay expenses incurred in defending a proceeding in advance of the final disposition of the proceeding if the person undertakes in writing to repay the amount if it is ultimately determined that the person did not meet the statutory standards of conduct.

The Registrant's Amended and Restated Bylaws (the Bylaws) also provide for the indemnification of directors and officers. The Bylaws, together with the Registrant's articles of incorporation, may require the Company, among other things, to indemnify directors or officers against certain liabilities that may arise by reason of their status or service as directors (other than in connection with a proceeding in which the director was adjudged liable to the Company or liable on the basis that the director derived an improper personal benefit), to advance expenses to them as they are incurred, provided that they undertake to repay the amount advanced if it is ultimately determined by a court that they are not entitled to indemnification, and to obtain and maintain directors' and officers' insurance if available on reasonable terms.

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Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit

| No. | Description |
|------------|--|
| 4.1 | Amended and Restated Articles of Incorporation of the Company (incorporated herein by reference to Appendix C to Lifeline Therapeutics (the predecessor to Lifevantage Corporation) Schedule 14-A filed on October 20, 2006) |
| 4.2 | Amended and Restated Bylaws of the Company (incorporated herein by reference to an exhibit to Lifeline Therapeutics (the predecessor to Lifevantage Corporation) Annual Report on Form 10-KSB for the fiscal year ended June 30, 2006 filed on September 28, 2006) |
| 4.3 | Lifevantage Corporation 2010 Long-Term Incentive Plan |
| 4.4 | Form of Nonstatutory Stock Option Agreement for the 2010 Long-Term Incentive Plan |
| 4.5 | Form of Incentive Stock Option Agreement for the 2010 Long-Term Incentive Plan |
| 5.1 | Opinion of Sheppard, Mullin, Richter & Hampton LLP |
| 23.1 | Consent of Ehrhardt Keefe Steiner & Hottman PC, an Independent Registered Public Accounting Firm |
| 23.2 | Consent of Sheppard, Mullin, Richter & Hampton LLP (included in Exhibit 5.1 to this Registration Statement) |
| 24.1 | Power of Attorney (included as part of the signature page to this Registration Statement) |

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Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) 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 this 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 this 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 this Registration Statement or any material change to such information in this Registration Statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(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 this Registration Statement.

(2) 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 therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) 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.

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

(c) Insofar as indemnification for liabilities arising under the Securities Act 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 Securities 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 Securities 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 San Diego, State of California on June 23, 2011.

LIFEVANTAGE CORPORATION

By: /s/ Carrie E. McQueen
 Carrie E. McQueen
 Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of Douglas C. Robinson and Carrie E. McQueen and each or any one of them, his/her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him/her and in his/her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments, exhibits thereto and other documents in connection therewith) 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/she 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/her 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 indicated on the dates indicated.

| Signature | Title | Date |
|--|---|------------------|
| /s/ Douglas C. Robinson Douglas C. Robinson | President, Chief Executive Officer and Director (Principal Executive Officer) | June 23, 2011 |
| /s/ Carrie E. McQueen Carrie E. McQueen | Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer) | June 23, 2011 |
| /s/ David W. Brown David W. Brown | President of LifeVantage Network | June 23, 2011 |
| /s/ C. Mike Lu C. Mike Lu | Director | June 23, 2011 |
| /s/ Kay Stout Manovich Kay Stout Manovich | Director | June 23, 2011 |
| /s/ Garry Mauro | Chairman of the Board of Directors | June 23, 2011 |

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Garry Mauro

/s/ Joe M. McCord

Director

June 23,
2011

Joe M. McCord

/s/ James D. Crapo

Director

June 23,
2011

James D. Crapo

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