

Alphatec Holdings, Inc.
Form DEF 14A
April 25, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

SCHEDULE 14A

(RULE 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934

Filed by the Registrant Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement
Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
Definitive Proxy Statement
Definitive Additional Materials
Soliciting Material Under Rule
14a-12

ALPHATEC HOLDINGS, INC.

(Exact Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

1) Title of each class of securities to which transaction applies:

2) Aggregate number of securities to which transaction applies:

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

4) Proposed maximum aggregate value of transaction:

5) Total fee paid:

Fee paid previously with preliminary materials

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1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No:

3) Filing Party:

4) Date Filed:

ALPHATEC HOLDINGS, INC.

5818 El Camino Real

Carlsbad, CA 92008

(760) 431-9286

April 24, 2018

Dear Stockholder:

We cordially invite you to attend our 2018 Annual Meeting of Stockholders to be held at 10:00 a.m., Pacific Time, on Thursday, May 17, 2018, at our corporate headquarters, which are located at 5818 El Camino Real, Carlsbad, CA 92008.

Details regarding the meeting, the business to be conducted at the meeting, and information about Alphatec Holdings, Inc. that you should consider when you vote your shares are described in this proxy statement.

We are asking stockholders of Alphatec Holdings, Inc.:

- to elect eleven persons to our Board of Directors;
- to ratify the selection of Mayer Hoffman McCann P.C. as our independent registered public accounting firm for our fiscal year ending December 31, 2018;
- to approve an amendment of our 2016 Equity Incentive Plan to increase the number of shares authorized for issuance under the plan;
- to approve, on an advisory basis, the compensation of our named executive officers; and
- to approve, as required by and in accordance with the listing rules of The Nasdaq Stock Market, the issuance of shares of our common stock (or securities convertible into or exercisable for common stock):
 - (A) representing more than 19.99% of our outstanding common stock or voting power in connection with: (i) the acquisition of SafeOp Surgical, Inc. by merger, (ii) our issuance of shares of Series B Convertible Preferred Stock and warrants in a private placement pursuant to a Securities Purchase Agreement dated March 8, 2018 with certain investors, and (iii) a Warrant Exercise Agreement dated March 8, 2018 with an existing warrant holder; and
 - (B) in connection with the Securities Purchase Agreement to insiders at less than market prices; and
 - (C) in connection with the above merger, the Securities Purchase Agreement, and the Warrant Exercise Agreement that could result in a Nasdaq Change of Control.

The Board of Directors recommends the approval of each of the proposals. Such other business will be transacted as may properly come before the annual meeting.

Pursuant to rules promulgated by the U.S. Securities and Exchange Commission, we are sending to you the accompanying full set of proxy materials, as well as providing access to those proxy materials on a publicly-accessible website. Our Notice of Annual Meeting of Stockholders, Proxy Statement, form of proxy card and our most recent Annual Report on Form 10-K are available free of charge at www.proxyvote.com.

We hope you will be able to attend the annual meeting. Whether you plan to attend the annual meeting or not, it is important that you cast your vote either in person or by proxy. You may vote over the Internet as well as by telephone or by mail. When you have finished reading the proxy statement, you are urged to vote in accordance with the instructions set forth in this proxy statement. We encourage you to vote by proxy so that your shares will be represented and voted at the meeting, whether or not you can attend. Thank you for your continued support of Alphatec Holdings, Inc.

Sincerely,

Patrick S. Miles
Chief Executive Officer and Chairman of the Board of Directors

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ALPHATEC HOLDINGS, INC.

5818 El Camino Real

Carlsbad, CA 92008

(760) 431-9286

April 24, 2018

NOTICE OF 2018 ANNUAL MEETING OF STOCKHOLDERS

TIME: 10:00 a.m. Pacific Time

DATE: Thursday, May 17, 2018

PLACE: Alphatec Holdings, Inc., 5818 El Camino Real, Carlsbad, CA 92008

NOTICE IS HEREBY GIVEN that the annual meeting of Alphatec Holdings, Inc. will be held on Thursday, May 17, 2018 (the "Annual Meeting"), for the following purposes:

1. To elect eleven directors to serve until the 2019 annual meeting of stockholders;
2. To ratify the selection of Mayer Hoffman McCann P.C. as our independent registered public accounting firm for our fiscal year ending December 31, 2018;
3. To approve the amendment of our 2016 Equity Incentive Plan to increase the number of shares authorized for issuance under the plan;
4. To approve, on an advisory basis, the compensation of our named executive officers;
5. To approve, as required by and in accordance with the listing rules of The Nasdaq Stock Market, the issuance of shares of our common stock (or securities convertible into or exercisable for common stock):
 - (A) representing more than 19.99% of our outstanding common stock or voting power in connection with: (i) the acquisition of SafeOp Surgical, Inc. by merger, (ii) our issuance of shares of Series B Convertible Preferred Stock and warrants in a private placement pursuant to a Securities Purchase Agreement dated March 8, 2018 with certain investors, and (iii) a Warrant Exercise Agreement dated March 8, 2018 with an existing warrant holder; and
 - (B) in connection with the Securities Purchase Agreement to insiders at less than market prices; and
 - (C) in connection with the above merger, the Securities Purchase Agreement, and the Warrant Exercise Agreement that could result in a Nasdaq Change of Control; and
6. To transact such other business as may be properly presented at the Annual Meeting and any adjournments or postponements thereof.

The foregoing items of business are more fully described in the proxy statement accompanying this Notice.

Our Board of Directors has fixed the close of business on March 23, 2018, as the record date for the Annual Meeting. Only stockholders of record at the close of business on that date may vote at the Annual Meeting or any adjournment or postponement thereof. A total of 25,548,990 shares of our common stock were issued and outstanding as of that date. Each share of common stock entitles its holder to one vote. Cumulative voting of shares of common stock is not permitted.

At the Annual Meeting and for the ten-day period immediately prior to the Annual Meeting, the list of our stockholders entitled to vote at the Annual Meeting will be available for inspection at our corporate headquarters,

which are located at 5818 El Camino Real, Carlsbad, CA 92008 for such purposes as are set forth in the General Corporation Law of the State of Delaware.

At least a majority of all issued and outstanding shares of common stock entitled to vote at a meeting is required to constitute a quorum for the conduct of business at the Annual Meeting. Accordingly, whether you plan to attend the Annual Meeting or not, we ask that you vote by following the instructions in the accompanying proxy statement and submit your proxy by the Internet, telephone or mail in order to ensure the presence of a quorum. You may change or revoke your proxy at any time before it is voted at the meeting.

BY ORDER OF THE BOARD OF DIRECTORS

Patrick S. Miles

Chief Executive Officer and Chairman of the Board of Directors

ALPHATEC HOLDINGS, INC.

5818 El Camino Real

Carlsbad, CA 92008

(760) 431-9286

PROXY STATEMENT FOR THE ALPHATEC HOLDINGS, INC.

2018 ANNUAL MEETING OF STOCKHOLDERS

GENERAL INFORMATION ABOUT THE ANNUAL MEETING

This proxy statement, along with the accompanying Notice of 2018 Annual Meeting of Stockholders, contains information about the 2018 annual meeting of stockholders of Alphatec Holdings, Inc. (the “Annual Meeting”), including any adjournments or postponements thereof. We are holding the Annual Meeting at 10:00 a.m., Pacific Time, on Thursday, May 17, 2018, at our corporate headquarters, which are located at 5818 El Camino Real, Carlsbad, CA 92008.

In this proxy statement, we refer to Alphatec Holdings, Inc. as “the Company,” “we” and “us.”

This proxy statement relates to the solicitation of proxies by our Board of Directors (the “Board of Directors”) for use at the Annual Meeting.

On or about April 27, 2018, we will begin sending this proxy statement, our Annual Report on Form 10-K for the fiscal year ended December 31, 2017 (the “Annual Report”) and a proxy card for the Annual Meeting to all stockholders entitled to vote at the Annual Meeting.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS

FOR THE STOCKHOLDER MEETING TO BE HELD ON MAY 17, 2018

This proxy statement, our Annual Report and the proxy card for the Annual Meeting are available for viewing, printing and downloading at www.proxyvote.com/. To view these materials, please have your 12-digit control number available that appears on your proxy card. On this website, you can also elect to receive future distributions of our proxy statements, annual reports to stockholders and proxy cards by electronic delivery.

Additionally, you can find a copy of our Annual Report, which includes our financial statements, for the fiscal year ended December 31, 2017 on the website of the Securities and Exchange Commission (the “SEC”) at www.sec.gov, or in the “Financial Information” section of the “Investor Relations” section of our website at www.atecspine.com.

IMPORTANT INFORMATION ABOUT THE ANNUAL MEETING AND VOTING

Will I receive any other proxy materials?

Rules adopted by the SEC allow companies to send stockholders a notice of Internet availability of proxy materials rather than mail them full sets of proxy materials. This year, we chose to mail a full set of proxy materials to stockholders. However, in the future we may take advantage of the Internet distribution option as we have in the past.

If in the future we choose to send such notices, they would contain instructions on how stockholders can access our notice of annual meeting and proxy statement, annual report to stockholders and proxy card via the Internet. They would also contain instructions on how stockholders could request to receive their materials electronically or in printed form on a one-time or ongoing basis.

Why is the Company Soliciting My Proxy?

The Board of Directors is soliciting your proxy to vote at the Annual Meeting to be held at our corporate headquarters, located at 5818 El Camino Real, Carlsbad, CA 92008 on Thursday, May 17, 2018 at 10:00 a.m., Pacific Time, and any adjournments or postponements of the meeting. The proxy statement along with the accompanying Notice of 2018 Annual Meeting of Stockholders summarizes the purposes of the Annual Meeting and the information you need to know in order to vote at the Annual Meeting.

We have made available to you on the Internet or have sent you this proxy statement, the Notice of 2018 Annual Meeting of Stockholders, the proxy card and a copy of our Annual Report for the fiscal year ended December 31, 2017 because you owned shares of our common stock on the record date. We intend to commence distribution of this full set of proxy materials to stockholders on or about April 27, 2018.

Who Can Vote?

Only stockholders who owned our common stock at the close of business on March 23, 2018 are entitled to vote at the Annual Meeting. However, as noted below, the holders of the 3,265,132 Merger Closing Shares (as defined in Proposal 5 below) acquired under the Merger Agreement (as defined in Proposal 5 below) as described in this proxy statement will not be entitled to vote on Proposal 5.

On the record date, there were 25,548,990 shares of our common stock outstanding and entitled to vote. Our common stock is our only class of voting stock.

You do not need to attend the Annual Meeting to vote your shares. Shares represented by valid proxies, received in time for and not revoked prior to the Annual Meeting, will be voted at the Annual Meeting. For instructions on how to change or revoke your proxy, see “May I Change or Revoke My Proxy?” below.

How Many Votes Do I Have?

Each share of our common stock that you own entitles you to one vote.

How Do I Vote?

Whether you plan to attend the Annual Meeting or not, we urge you to vote by proxy. All shares represented by valid proxies that we receive through this solicitation, and that are not revoked, will be voted in accordance with your instructions on the proxy card or as instructed via Internet or telephone. You may specify whether your shares should be voted for or withheld for each nominee for director and whether your shares should be voted for, against or abstain with respect to each of the other proposals. If you properly submit a proxy without giving specific voting instructions, your shares will be voted in accordance with the Board of Directors’ recommendations as noted below. Voting by proxy will not affect your right to attend the Annual Meeting. If your shares are registered directly in your name through our stock transfer agent, Computershare, Inc. (“Computershare”), 480 Washington Ave., Jersey City, NJ 07310, or you have stock certificates registered in your name, you may vote:

By Internet or by telephone. Follow the instructions included in the proxy card to vote by Internet at www.proxyvote.com or telephone.

By mail. If you received a proxy card by mail, you can vote by mail by completing, signing, dating and returning the proxy card as instructed on the card. If you sign the proxy card but do not specify how you want your shares voted, they will be voted in accordance with the recommendation of our Board of Directors as noted below.

In person at the meeting. If you attend the Annual Meeting, you may deliver your completed proxy card in person or you may vote by completing a ballot, which will be available at the Annual Meeting.

Telephone and Internet voting facilities for stockholders of record will be available 24 hours a day and will close at 11:59 p.m. Eastern Time on Wednesday, May 16, 2018.

If your shares are held in “street name” (held in the name of a bank, broker or other holder of record), you will receive instructions from the holder of record. You must follow the instructions of the holder of record in order for your shares to be voted. Telephone and Internet voting also will be offered to stockholders owning shares through certain banks and brokers. If your shares are not registered in your own name and you plan to vote your shares in person at

the meeting, you should contact the broker or agent to obtain a legal proxy or broker's proxy card and bring it with you to the Annual Meeting in order to vote. You will not be able to vote at the Annual Meeting unless you have a proxy card from your broker.

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How Does the Board of Directors Recommend That I Vote on the Proposals?

The Board of Directors recommends that you vote as follows:

- “FOR” the election of each of the nominees for director;
- “FOR” the ratification of the selection of Mayer Hoffman McCann P.C. as our independent registered public accounting firm for our fiscal year ending December 31, 2018;
- “FOR” the approval of the amendment of our 2016 Equity Incentive Plan (the “2016 Plan”) to increase the number of shares authorized for issuance under the 2016 Plan;
- “FOR” the approval, on an advisory basis, of the compensation of our named executive officers; and
- “FOR” the approval, as required by and in accordance with the listing rules of The Nasdaq Stock Market (“Nasdaq”), of the issuance of shares of our common stock (or securities convertible into or exercisable for common stock): (A) representing more than 19.99% of our outstanding common stock or voting power in connection with: (i) the acquisition of SafeOp Surgical, Inc. by merger, (ii) our issuance of shares of common stock upon the conversion of the Series B Convertible Preferred Stock and the exercise of the warrants sold in a private placement pursuant to the Securities Purchase Agreement (as defined in Proposal 5 below), and (iii) the Warrant Exercise Agreement dated March 8, 2018 with an existing warrant holder; and (B) in connection with the Securities Purchase Agreement to insiders at less than market prices; and (C) in connection with the above merger, the Securities Purchase Agreement, and the Warrant Exercise Agreement that could result in a Nasdaq Change of Control.

If any other matter is presented at the Annual Meeting, your proxy provides that your shares will be voted by the proxy holder listed in the proxy in accordance with his or her best judgment. At the time this proxy statement was first made available to our stockholders, we knew of no matters that needed to be acted on at the Annual Meeting, other than those discussed in this proxy statement.

May I Change or Revoke My Proxy?

If you give us your proxy, you may change or revoke it at any time before the Annual Meeting. Stockholders of record may change or revoke your proxy in any one of the following ways:

- if you received a proxy card, by signing a new proxy card with a date later than your previously delivered proxy and submitting it as instructed above;
- by re-voting by Internet or by telephone as instructed above;
- by notifying us at 5818 El Camino Real, Carlsbad, CA 92008, Attention: Craig Hunsaker, Executive Vice President, People & Culture and General Counsel, in writing before the Annual Meeting that you have revoked your proxy; or
- by attending the Annual Meeting in person and voting in person.

Beneficial owners of shares held in street name must follow the instructions provided by your bank, broker, trustee or other nominee if you wish to change your vote.

Attending the Annual Meeting in person will not in and of itself revoke a previously submitted proxy. You must specifically request at the Annual Meeting that the proxy be revoked.

Your most current vote, whether by telephone, Internet or proxy card is the one that will be counted.

What if I Receive More Than One Proxy Card?

You may receive more than one proxy card if you hold shares of our common stock in more than one account, which may be in registered form or held in street name. Please vote in the manner described above under “How Do I Vote?” for each account to ensure that all of your shares are voted.

Will My Shares be Voted if I Do Not Vote?

If your shares are registered in your name or if you have stock certificates, they will not be counted if you do not vote as described above under “How Do I Vote?”

If your shares are held in street name and you do not provide voting instructions to the bank, broker or other nominee that holds your shares as described above under “How Do I Vote?,” the bank, broker or other nominee that holds your shares has the authority to vote your uninstructed shares only on the ratification of the appointment of our independent registered public accounting firm (Proposal 2) if it does not receive instructions from you, as this is considered a routine matter on which the bank, broker or other nominee has discretionary authority to vote. Therefore, we encourage you to provide voting instructions to your bank, broker or other nominee. This ensures your shares will be voted at the Annual Meeting and in the manner you desire. A “broker non-vote” will occur if your broker cannot vote your shares on a particular matter because it has not received instructions from you and does not have discretionary voting authority on that matter or because your broker chooses not to vote on a matter for which it does have discretionary voting authority.

Your bank, broker or other nominee does not have the ability to vote your uninstructed shares in respect of Proposal 1, Proposal 3, Proposal 4 or Proposal 5. Thus, if you hold your shares in street name, it is critical that you cast your vote if you want your vote to be counted for the foregoing proposals. If you do not instruct your bank, broker or other nominee how to vote with respect to the foregoing proposals, no votes will be cast on these proposals on your behalf.

What Vote is Required to Approve Each Proposal and How are Votes Counted?

Proposal 1: The nominees for director who receive the most votes (also known as a “plurality” of the votes cast) will be elected. You may vote either FOR all of the nominees, WITHHOLD your vote from all of the nominees or WITHHOLD your vote from any one or more of the nominees. Votes that are withheld will not be included in the vote tally for the election of directors. Brokerage firms do not have authority to vote customers’ uninstructed shares held by the firms in street name for the election of directors. As a result, any shares not voted by a customer will be treated as a broker non-vote. Such broker non-votes will have no effect on the results of this vote.