

Capnia, Inc.  
Form 4  
August 20, 2015

**FORM 4**

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

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person \*  
**MARIO ERNEST**

(Last) (First) (Middle)

3 TWIN DOLPHIN DRIVE, SUITE 160

(Street)

REDWOOD CITY, CA 94065

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol  
**Capnia, Inc. [CAPN]**

3. Date of Earliest Transaction (Month/Day/Year)  
**08/18/2015**

4. If Amendment, Date Original Filed (Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director  10% Owner  
 Officer (give title below)  Other (specify below)

6. Individual or Joint/Group Filing (Check Applicable Line)  
 Form filed by One Reporting Person  
 Form filed by More than One Reporting Person

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price
Common Stock	08/11/2015		J(1)(2)		210,251	A	\$ 0 (4)
Common Stock					10,416	I	See Footnote (5)
Common Stock					10,416	I	See Footnote (6)

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474 (9-02)

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**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned**  
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Security (Instr. 3 and 4)
Warrant (right to buy)	\$ <u>6.5</u> <sup>(1)</sup> <sub>(2)</sub>	08/18/2015		J <sup>(1)(2)</sup>	50,000 <sub>(3) (4)</sub>	11/12/2014 <sup>(1)(2)</sup> 02/12/2016	Common Stock

## Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
MARIO ERNEST 3 TWIN DOLPHIN DRIVE, SUITE 160 REDWOOD CITY, CA 94065	X	X		

## Signatures

/s/ David O'Toole, attorney  
in fact 08/19/2015

\*\*Signature of Reporting Person Date

## Explanation of Responses:

\* If the form is filed by more than one reporting person, see Instruction 4(b)(v).

\*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

- The warrant to purchase Common Stock is exercisable, at the holder's option, into shares of Capnia's Common Stock as follows: (i) at any time until the 15-month anniversary of the date of issuance, the holder is entitled to purchase one share of Capnia Common Stock at a cash exercise price equal to \$6.50 per share, or (ii) if, on any trading day after the four-month anniversary of the date of issuance of the
- warrant, and ending on the 15-month anniversary of the date of issuance of the warrant, the "market price" of a share of Capnia Common Stock is less than \$6.50, then the holder of the warrant may exercise the warrant in a cashless exercise to obtain a number of shares of Capnia Common Stock equal to: 125% of the difference between (a) the quotient of (i) the product of (A) the number of warrant shares being exercised
  - (Continued from Footnote 1) and (B) \$6.50, divided by (ii) 85% of the arithmetic average of the sum of the five lowest per share volume weighted average prices for the 15 trading days on the Nasdaq Capital Market (or if not on the Nasdaq Capital Market, on Capnia's then principal trading market) immediately prior to the date of exercise, and (b) the number of warrant shares being exercised. The five lowest per share volume weighted average prices for the 15 trading days on the Nasdaq Capital Market ranged from \$1.5042 to \$1.9113, inclusive. The reporting person undertakes to provide to Capnia, any security holder of Capnia, or the staff of the Securities and Exchange

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Commission, upon request, full information regarding the five lowest per share volume weighted average prices for the 15 trading days on the Nasdaq Capital Market set forth in these Footnotes 1 and 2.

(3) The shares of Common Stock reported in Column 5 are the number of shares of Common Stock issuable upon cash exercise of the warrant. The reporting person elected to cashless exercise the warrant. See Footnotes 1 and 2 regarding the calculation for determining the number of shares of Common Stock issued upon cashless exercise of the warrant.

(4) The holder cashless exercised the warrant for 210,251 shares of Common Stock as disclosed in Footnotes 1 and 2 in lieu of cash exercising the warrant for an aggregate of 50,000 shares at a cash exercise price per share of \$6.50.

(5) These shares are held directly by Ernest Mario 2008 Annuity Trust III ("E. Mario 2008 Trust"). Ernest Mario serves as trustee of the E. Mario 2008 Trust and may be deemed to be the beneficial owner of the shares held directly by E. Mario 2008 Trust. Ernest Mario disclaims beneficial ownership of the securities held by E. Mario 2008 Trust, except to the extent of such individual's pecuniary interests in the securities.

(6) These shares are held directly by Mildred Mario 2008 Annuity Trust III ("M. Mario 2008 Trust"). Ernest Mario and Ernest Mario's spouse, Mildred Mario, serves as trustees of the M. Mario 2008 Trust and may be deemed to be the beneficial owner of the shares held directly by M. Mario 2008 Trust. Ernest Mario disclaims beneficial ownership of the securities held by M. Mario 2008 Trust, except to the extent of such individual's pecuniary interests in the securities.

(7) The shares represented in Column 9 represent the number of shares issuable upon cash exercise of the warrant at \$6.50 per share following cashless exercise of this warrant referenced in footnote 4.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.

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