

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended **June 30, 2019**

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number **001-36306**

**Eagle Pharmaceuticals, Inc.**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**

(State or Other Jurisdiction of  
Incorporation or Organization)

**2834**

(Primary Standard Industrial  
Classification Code Number)

**50 Tice Boulevard, Suite 315  
Woodcliff Lake, NJ 07677  
(201) 326-5300**

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

**20-8179278**

(I.R.S. Employer  
Identification Number)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading symbol	Name of each exchange on which registered
Common stock, \$0.001 par value per share	EGRX	Nasdaq Global Market

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this Chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth 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	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>	Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
Emerging growth company	<input type="checkbox"/>						

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

The number of shares outstanding of the registrant's common stock as of July 31, 2019: 13,666,880 shares.

**NOTE REGARDING COMPANY REFERENCES**

References to the "Company," "Eagle Pharmaceuticals," "Eagle," "we," "us" or "our" mean Eagle Pharmaceuticals, Inc., a Delaware corporation and its subsidiary, Eagle Biologics, Inc., and references to "Eagle Biologics" mean Eagle Biologics, Inc.

**NOTE REGARDING TRADEMARKS**

All trademarks, trade names and service marks appearing in this Quarterly Report on Form 10-Q are the property of their respective owners.

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**EAGLE PHARMACEUTICALS, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS (UNAUDITED)**  
(In thousands, except share amounts)

	<b>June 30, 2019</b>	<b>December 31, 2018</b>
<b>ASSETS</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 108,128	\$ 78,791
Accounts receivable, net	60,339	66,486
Inventories	11,594	8,304
Prepaid expenses and other current assets	5,598	10,263
Total current assets	185,659	163,844
Property and equipment, net	2,258	2,397
Intangible assets, net	16,843	18,103
Goodwill	39,743	39,743
Deferred tax asset, net	13,949	13,822
Other assets	3,178	694
Total assets	\$ 261,630	\$ 238,603
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current liabilities:</b>		
Accounts payable	\$ 17,296	\$ 9,917
Accrued expenses and other liabilities	29,450	23,519
Current portion of long-term debt	5,000	6,250
Total current liabilities	51,746	39,686
Other long-term liabilities	1,560	—
Long-term debt, less current portion	35,843	38,155
<b>Commitments and Contingencies</b>		
<b>Stockholders' equity:</b>		
Preferred stock, 1,500,000 shares authorized and no shares issued or outstanding as of June 30, 2019 and December 31, 2018	—	—
Common stock, \$0.001 par value; 50,000,000 shares authorized; 16,522,196 and 16,504,283 shares issued as of June 30, 2019 and December 31, 2018, respectively	17	17
Additional paid in capital	267,479	256,458
Retained earnings	73,885	58,187
Treasury stock, at cost, 2,855,316 and 2,590,258 shares as of June 30, 2019 and December 31, 2018, respectively	(168,900)	(153,900)
Total stockholders' equity	172,481	160,762
Total liabilities and stockholders' equity	\$ 261,630	\$ 238,603

See accompanying notes to condensed consolidated financial statements.

**EAGLE PHARMACEUTICALS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME (UNAUDITED)**  
(In thousands, except share and per share amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
<b>Revenue:</b>				
Product sales	\$ 29,437	\$ 23,041	\$ 43,909	\$ 33,879
Royalty revenue	27,265	36,255	53,578	72,043
License and other revenue	—	—	9,000	—
<b>Total revenue</b>	<b>56,702</b>	<b>59,296</b>	<b>106,487</b>	<b>105,922</b>
<b>Operating expenses:</b>				
Cost of product sales	18,175	14,074	27,729	21,298
Cost of royalty revenue	3,109	4,485	6,655	9,070
Research and development	8,957	15,265	15,332	32,585
Selling, general and administrative	17,228	15,987	35,369	31,153
Restructuring charge	—	7,388	—	7,388
Asset impairment charge	—	2,704	—	2,704
Change in fair value of contingent consideration	—	(790)	—	(763)
<b>Total operating expenses</b>	<b>47,469</b>	<b>59,113</b>	<b>85,085</b>	<b>103,435</b>
<b>Income from operations</b>	<b>9,233</b>	<b>183</b>	<b>21,402</b>	<b>2,487</b>
Interest income	637	1	1,131	27
Interest expense	(665)	(701)	(1,351)	(1,376)
<b>Total other expense, net</b>	<b>(28)</b>	<b>(700)</b>	<b>(220)</b>	<b>(1,349)</b>
<b>Income (loss) before income tax (provision) benefit</b>	<b>9,205</b>	<b>(517)</b>	<b>21,182</b>	<b>1,138</b>
Income tax (provision) benefit	(2,480)	3,176	(5,484)	4,137
<b>Net Income</b>	<b>\$ 6,725</b>	<b>\$ 2,659</b>	<b>\$ 15,698</b>	<b>\$ 5,275</b>
Earnings per share attributable to common stockholders:				
Basic	\$ 0.49	\$ 0.18	\$ 1.13	\$ 0.36
Diluted	\$ 0.48	\$ 0.17	\$ 1.11	\$ 0.34
Weighted average number of common shares outstanding:				
Basic	13,782,720	14,879,040	13,853,580	14,849,449
Diluted	14,156,627	15,446,827	14,176,297	15,473,727

See accompanying notes to condensed consolidated financial statements.

**EAGLE PHARMACEUTICALS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY (UNAUDITED)**  
(In thousands)

	Common Stock		Additional Paid-In Capital	Treasury Stock	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount				
<b>Balance at March 31, 2019</b>	16,520	\$ 17	\$ 262,084	\$(153,900)	\$ 67,160	\$ 175,361
Stock-based compensation expense	—	—	5,382	—	—	5,382
Issuance of common stock upon exercise of stock option grants	2	—	13	—	—	13
Common stock repurchases	—	—	—	(15,000)	—	(15,000)
Net income	—	—	—	—	6,725	6,725
<b>Balance at June 30, 2019</b>	<u>16,522</u>	<u>\$ 17</u>	<u>\$ 267,479</u>	<u>\$(168,900)</u>	<u>\$ 73,885</u>	<u>\$ 172,481</u>

	Common Stock		Additional Paid-In Capital	Treasury Stock	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount				
<b>Balance at March 31, 2018</b>	16,166	\$ 16	\$ 237,059	\$ (87,798)	\$ 28,900	\$ 178,177
Stock-based compensation expense	—	—	4,735	—	—	4,735
Issuance of common stock upon exercise of stock option grants	292	—	5,502	—	—	5,502
Payment of employee withholding tax upon vesting of stock-based awards	—	—	(1,826)	—	—	(1,826)
Common stock repurchases	—	—	—	(3,516)	—	(3,516)
Net income	—	—	—	—	2,659	2,659
<b>Balance at June 30, 2018</b>	<u>16,458</u>	<u>\$ 16</u>	<u>\$ 245,470</u>	<u>\$ (91,314)</u>	<u>\$ 31,559</u>	<u>\$ 185,731</u>

	Common Stock		Additional Paid-In Capital	Treasury Stock	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount				
<b>Balance at December 31, 2018</b>	16,504	\$ 17	\$ 256,458	\$ (153,900)	\$ 58,187	\$ 160,762
Stock-based compensation expense	—	—	11,164	—	—	11,164
Issuance of common stock upon exercise of stock option grants	9	—	55	—	—	55
Payment of employee withholding tax upon vesting of stock-based awards	—	—	(198)	—	—	(198)
Issuance of common stock related to vesting of restricted stock units	9	—	—	—	—	—
Common stock repurchases	—	—	—	(15,000)	—	(15,000)
Net income	—	—	—	—	15,698	15,698
<b>Balance at June 30, 2019</b>	<u>16,522</u>	<u>\$ 17</u>	<u>\$ 267,479</u>	<u>\$ (168,900)</u>	<u>\$ 73,885</u>	<u>\$ 172,481</u>

	Common Stock		Additional Paid-In Capital	Treasury Stock	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount				
<b>Balance at December 31, 2017</b>	16,089	\$ 16	\$ 233,639	\$ (80,795)	\$ 26,284	\$ 179,144
Stock-based compensation expense	—	—	10,040	—	—	10,040
Issuance of common stock upon exercise of stock option grants	369	—	6,668	—	—	6,668
Payment of employee withholding tax for net option exercise	—	—	(4,877)	—	—	(4,877)
Common stock repurchases	—	—	—	(10,519)	—	(10,519)
Net income	—	—	—	—	5,275	5,275
<b>Balance at June 30, 2018</b>	<u>16,458</u>	<u>\$ 16</u>	<u>\$ 245,470</u>	<u>\$ (91,314)</u>	<u>\$ 31,559</u>	<u>\$ 185,731</u>

See accompanying notes to condensed consolidated financial statements.

**EAGLE PHARMACEUTICALS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)**  
(In thousands)

	<b>Six Months Ended June 30,</b>	
	<b>2019</b>	<b>2018</b>
<b>Cash flows from operating activities:</b>		
Net income	\$ 15,698	\$ 5,275
Adjustments to reconcile net income to net cash provided by operating activities:		
Deferred income taxes	(127)	1,537
Depreciation expense	1,005	683
Amortization expense	1,260	1,316
Stock-based compensation expense	11,164	10,040
Change in fair value of contingent consideration	—	(763)
Amortization of debt issuance costs	188	188
Asset impairment charge	—	2,704
Non-cash restructuring charge	—	5,788
<b>Changes in operating assets and liabilities which provided (used) cash:</b>		
Accounts receivable	6,147	(15,582)
Inventories	(3,290)	(3,427)
Prepaid expenses and other current assets	4,665	(10,705)
Accounts payable	7,379	6,285
Accrued expenses and other liabilities	4,880	7,831
Other assets and other long-term liabilities, net	(396)	(582)
Net cash provided by operating activities	<u>48,573</u>	<u>10,588</u>
<b>Cash flows from investing activities:</b>		
Purchase of property and equipment	(343)	(19)
Net cash used in investing activities	<u>(343)</u>	<u>(19)</u>
<b>Cash flows from financing activities:</b>		
Proceeds from common stock option exercises	55	6,668
Payments related to employee net option exercises	—	(4,877)
Employee withholding taxes related to stock-based awards	(198)	—
Payment of contingent consideration	—	(15,001)
Payment of debt	(3,750)	(1,250)
Repurchases of common stock	(15,000)	(10,519)
Net cash used in financing activities	<u>(18,893)</u>	<u>(24,979)</u>
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>29,337</b>	<b>(14,410)</b>
<b>Cash and cash equivalents at beginning of period</b>	<b>78,791</b>	<b>114,657</b>
<b>Cash and cash equivalents at end of period</b>	<b><u>\$ 108,128</u></b>	<b><u>\$ 100,247</u></b>
<b>Supplemental disclosures of cash flow information:</b>		
<b>Cash paid during the period for:</b>		
Income taxes, net	\$ 2,874	\$ 1,831
Interest	1,221	529

See accompanying notes to condensed consolidated financial statements.

**EAGLE PHARMACEUTICALS, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)**  
**(In thousands, except share and per share amounts)**

**1. Interim Condensed Consolidated Financial Statements**

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("U.S. GAAP") for interim information and pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC") for reporting on Form 10-Q. Accordingly, certain information and footnote disclosures required for complete financial statements are not included herein. The condensed consolidated balance sheet at December 31, 2018 was derived from audited financial statements, but certain information and footnote disclosures normally included in the Company's annual consolidated financial statements have been condensed or omitted. In the opinion of management, all adjustments (consisting only of normal recurring adjustments) necessary for the fair presentation of the financial information for the interim periods reported have been made. Results of operations for the three and six months ended June 30, 2019 are not necessarily indicative of the results for the year ending December 31, 2019 or any period thereafter. These unaudited interim condensed consolidated financial statements should be read in conjunction with the audited financial statements and related notes included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the SEC on February 28, 2019. Unless otherwise indicated or required by context, reference throughout to the "Company," "Eagle Pharmaceuticals," "Eagle," "we," "us" or "our" mean Eagle Pharmaceuticals, Inc., a Delaware corporation and its subsidiary, Eagle Biologics, Inc., and references to "Eagle Biologics" mean Eagle Biologics, Inc.

**2. Organization and Business Activities**

Eagle Pharmaceuticals, Inc. is a specialty pharmaceutical company focused on developing and commercializing injectable products, primarily in the critical care and oncology areas, mainly using the U.S. Food and Drug Administration's ("FDA's") 505(b)(2) New Drug Application ("NDA") regulatory pathway. The Company's business model is to develop proprietary innovations to FDA-approved injectable drugs, referred to as branded reference drugs, that offer favorable attributes to patients and healthcare providers. The Company has two products currently being sold in the United States under various license agreements in place with commercial partners; a ready-to-use formulation of Argatroban and rapidly infused bendamustine RTD 50ml solution ("BENDEKA"). In addition, the Company directly sells two products in the United States; Eagle's bendamustine RTD 500ml solution ("Big Bag" or "Belrapzo") and Ryanodex<sup>®</sup>(dantrolene sodium) ("Ryanodex").The Company has a number of products currently under development and certain products may be subject to license agreements.

On February 13, 2015, the Company submitted a New Drug Application ("NDA") to the FDA for BENDEKA, which was approved by the FDA on December 7, 2015. Also on February 13, 2015, the Company entered into an Exclusive License Agreement (the "BENDEKA License") with Cephalon, Inc. ("Cephalon"), a wholly-owned subsidiary of Teva Pharmaceutical Industries Ltd. ("Teva"), for U.S. and Canadian rights to BENDEKA for treatment of patients with chronic lymphocytic leukemia ("CLL") and patients with non-Hodgkin's lymphoma ("NHL"). Subsequently, with the consent of the Company, Cephalon assigned to Teva Pharmaceuticals International GmbH ("TPIG") all of Cephalon's rights and obligations under the BENDEKA License. Accordingly, all references to "Cephalon" or to the "BENDEKA License" and the related supply agreements for BENDEKA should be read and construed as references to TPIG and to the license agreement and supply agreements for BENDEKA to which the Company and TPIG are now parties. Pursuant to the terms of the BENDEKA License, Cephalon will be responsible for all U.S. commercial activities for the product including promotion and distribution, and the Company is responsible for obtaining and maintaining all regulatory approvals and conducting post-approval clinical studies. In connection with the BENDEKA License, the Company has entered into a supply agreement with Cephalon, pursuant to which the Company is responsible for supplying product to Cephalon. During the quarter-ended September 30, 2016, the Company entered into an amendment to the BENDEKA License and supply agreements for BENDEKA. The amendment expands the geographical scope of the rights granted under the original agreement to include territories outside the U.S. and Canada.

On October 30, 2018, the Company announced a repurchase program approved by the Board of Directors pursuant to which the Company may repurchase up to \$150 million of its outstanding common stock, consisting of (i) up to \$50 million in repurchases pursuant to an accelerated share repurchase agreement (the "ASR"), with JPMorgan Chase Bank, N.A. ("JPMorgan"), and (ii) up to \$100 million in additional repurchases (collectively, the "2018 Share Repurchase Program"). Under the 2018 Share Repurchase Program, the Company is authorized to repurchase shares through open market purchases, privately-negotiated transactions, accelerated share repurchases or otherwise in accordance with applicable federal securities laws, including through Rule 10b5-1 trading plans and under Rule 10b-18 of the Exchange Act. Under the 2018 Share Repurchase Program, the additional repurchases have no time limit and may be suspended or discontinued completely at any time. The specific timing and amount of repurchases will vary based on available capital resources and other financial and operational performance, market conditions, securities law

**EAGLE PHARMACEUTICALS, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(In thousands, except share and per share amounts)**  
*(Unaudited)*

limitations, and other factors. The repurchases will be made using the Company's cash resources. In any period, cash used in financing activities related to shares repurchased may differ from the comparable change in stockholders' equity, reflecting timing differences between the recognition of share repurchase transactions and their settlement for cash. As of June 30, 2019, the Company has repurchased an aggregate of 2,855,316 shares of common stock for \$168.9 million.

On November 16, 2016, the Company entered into a stock purchase agreement with Arsia Therapeutics, LLC ("Arsia SPA") to acquire Arsia Therapeutics, Inc., an early-stage biotechnology firm with proprietary viscosity-reducing technology and formulation know-how and subsequently renamed the subsidiary Eagle Biologics, Inc. ("Eagle Biologics"). Under the terms of the Arsia SPA, at closing the Company paid approximately \$27.2 million in cash and issued 40,200 shares of Eagle common stock worth \$3.0 million. The Company also agreed to pay up to \$48 million in additional payments upon the completion of certain milestones, for aggregate potential payments of \$78 million. As part of the agreement, Eagle Biologics founders and Massachusetts Institute of Technology professors Dr. Robert Langer and Dr. Alexander Klibanov, as well as other key members of the Eagle Biologics team, entered into consulting agreements with Eagle to develop new formulations and solve delivery challenges with large molecule products (see Note 4. Acquisitions).

On July 26, 2017, the Company received a Complete Response Letter from the FDA regarding its 505(b)(2) NDA for Ryanodex for the treatment of exertional heat stroke ("EHS"), in conjunction with external cooling methods. Based on our meeting with the FDA, the Company conducted an additional clinical trial in August 2018 during the Hajj pilgrimage, similar to the study conducted during the Hajj in 2015. On August 30, 2018, the Company announced the completion of enrollment of the Company's second clinical study to further evaluate the safety and efficacy of Ryanodex. During the 2018 Hajj, overall emergency room visits were dramatically decreased from previous years due to well-implemented crowd management, lower temperatures, lower humidity and other external factors. As a result, the number of EHS patients available for study enrollment was also significantly less than in previous years, and therefore much lower than anticipated. The preliminary assessment of patients enrolled is consistent with the data from the study conducted in 2015, in which patients dosed with Ryanodex plus Standard of Care ("SOC") showed an additive benefit compared to patients receiving SOC only. The Company continues to confer with the U.S. Food and Drug Administration to discuss next steps.

On February 8, 2018, the Company entered into an amendment (the "Arsia Amendment") to the Arsia SPA. Pursuant to the Arsia SPA, the Company acquired from Arsia Therapeutics, LLC (the "Seller") all of the outstanding capital stock of Arsia Therapeutics, Inc. (now Eagle Biologics). Pursuant to the Arsia Amendment, the Company's obligations to make four separate milestone payments pursuant to the Arsia SPA, which could have aggregated to a total of \$48 million, were terminated in exchange for a single payment of \$15 million to the Seller.

In March 2018, the Company announced that the United States Patent and Trademark Office ("USPTO") issued a new patent to the Company's Eagle Biologics division. Patent number 9,925,263 will expire in March 2036 and is the fourth patent issued in the Eagle Biologics family of patents.

In March 2018, the FDA approved a second manufacturing site for BENDEKA.

On April 16, 2018, the Company announced the FDA's acceptance of the Company's Abbreviated New Drug Application ("ANDA") filing for vasopressin injection, 1ml. This product is the generic version of Endo International plc's original Vasostrict® formulation, which is indicated to increase blood pressure in adults with vasodilatory shock (e.g., post-cardiotomy or sepsis) who remain hypotensive despite fluids and catecholamines.

On May 15, 2018, the FDA granted final approval for Eagle's ready-to-dilute bendamustine hydrochloride solution in a 500ml admixture for the treatment of patients with chronic lymphocytic leukemia ("CLL") and patients with indolent B-cell non-Hodgkin lymphoma ("NHL") that has progressed during or within six months of treatment with rituximab or a rituximab-containing regimen.

On March 24, 2016, the FDA denied the Company's request for seven years of orphan drug exclusivity in the U.S., for BENDEKA. In April 2016, the Company filed a lawsuit against the FDA arguing that BENDEKA is entitled to orphan drug exclusivity as a matter of law (see Note 12. Legal Proceedings). On July 2, 2014, the FDA granted the Company orphan drug designations for BENDEKA for the treatment of CLL and indolent B-cell NHL. The designations were based on a plausible hypothesis that

**EAGLE PHARMACEUTICALS, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Continued)**  
**(In thousands, except share and per share amounts)**  
*(Unaudited)*

BENDEKA is “clinically superior” to a drug previously approved for the same indications. Generally, an orphan-designated drug is eligible for seven years of marketing exclusivity for the orphan-designated indications upon approval of the drug for those indications. On June 8, 2018, the U.S. District Court for the District of Columbia (the “Court”) issued a decision requiring the FDA to grant seven years of orphan drug exclusivity (“ODE”) in the U.S., for BENDEKA, and on July 8, 2018 the FDA granted such ODE through December 2022. In addition, on July 8, 2018, the FDA submitted a Motion to Alter or Amend the Judgement Pursuant to Rule 59(e), pursuant to which the FDA requested the Court amend its decision to make clear that the decision does not affect any applications referencing TREANDA. The FDA’s motion was denied by the Court on August 1, 2018 on the grounds that FDA was seeking an inappropriate advisory opinion. The Company continues to believe that an appropriate application of orphan drug exclusivity would first allow generic TREANDA entrants in December 2022, rather than November 2019, and expects to vigorously pursue the scope of its exclusivity grant.

In June 2018, as part of an ongoing organizational review, the Company began a restructuring initiative to rationalize its product portfolio and focus its physical sites. These measures include the discontinuation of manufacture and distribution of Non-Alcohol Docetaxel Injection and plans to rationalize research and development operations. The Company ceased selling the product by September 30, 2018.

On October 3, 2018, the Company announced that it entered into an agreement with the United States Army Medical Research Institute of Chemical Defense, the nation’s leading science and technology laboratory in the area of medical chemical countermeasures research and development, to conduct a study to evaluate the neuroprotective effects of Ryanodex.

As of March 29, 2019, the Company and TPIG executed an amendment to the BENDEKA License Agreement to terminate Teva’s obligation to pay future milestones and royalties on BENDEKA sales outside of the U.S., which included an upfront cash payment of \$9 million that was recorded as License and other revenue on the condensed consolidated statements of income for the six months ended June 30, 2019.

On April 13, 2019, the Company and TPIG entered into an amendment to the BENDEKA License Agreement, amending the terms of the BENDEKA License Agreement to increase the U.S. royalty paid to the Company and re-allocate certain litigation expenses. Per the amendment, beginning on October 1, 2019, the Company’s royalty payment will increase from 25% to 30% of BENDEKA net United States sales, provided that BENDEKA’s orphan drug exclusivity has not been rescinded, withdrawn or waived by that date. The royalty rate will increase by one percentage point on each anniversary of October 1, 2019 until it reaches 32%, and it will remain at 32% thereafter. The amendment also extends the U.S. royalty term for BENDEKA until it is no longer sold in the United States. The previous royalty term was set to expire in 2025. The extended term coincides with the bendamustine patents with expiries through 2033. Pursuant to the amendment, Eagle will continue to be responsible for the manufacture of BENDEKA for the U.S. market for so long as it is sold in the United States. Also pursuant to the amendment, the Company has agreed to assume a portion of BENDEKA-related patent litigation expenses.

On May 7, 2019, the Company announced positive results of its study to evaluate the neuroprotective effects of Ryanodex secondary to nerve agent exposure, conducted with the United States Army Medical Research Institute of Chemical Defense.

### **3. Summary of Significant Accounting Policies**

#### ***Use of Estimates***

These financial statements are presented in U.S. dollars and are prepared in accordance with U.S. GAAP. The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the condensed financial statements including disclosure of contingent assets and contingent liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period and accompanying notes. The Company’s critical accounting policies are those that are both most important to the Company’s financial condition and results of operations and require the most difficult, subjective or complex judgments on the part of management in their application, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Because of the uncertainty of factors surrounding the estimates or judgments used in the preparation of the financial statements, actual results may materially vary from these estimates.

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***Reclassifications***

Certain reclassifications have been made to prior year amounts to conform with the current year presentation. None of the reclassifications were significant.

***Cash and Cash Equivalents***

The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents. All cash and cash equivalents are held in United States financial institutions. The carrying amount of cash and cash equivalents approximates its fair value due to its short-term nature.

The Company, at times, maintains balances with financial institutions in excess of the FDIC limit.

***Fair Value Measurements***

U.S. GAAP establishes a framework for measuring fair value under generally accepted accounting principles and enhances disclosures about fair value measurements. Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The standard describes the following fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value:

- Level 1: Quoted prices in active markets for identical assets or liabilities.
- Level 2: Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- Level 3: Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The fair value of interest-bearing cash, cash equivalents, accounts receivable and accounts payable approximate fair value due to their life being short term in nature, and are classified as Level 1 for all periods presented.

The fair value of debt is classified as Level 2 for the periods presented and approximates its fair value due to the variable interest rate.

The fair value of the contingent consideration/accrued royalty is classified as Level 3 for the periods presented.

***Intangible Assets***

***Other Intangible Assets, Net***

The Company capitalizes and includes in intangible assets the costs of acquired product licenses and developed technology purchased individually or identified in a business combination. Intangible assets are recorded at fair value at the time of their acquisition and stated net of accumulated amortization. The Company amortizes its definite-lived intangible assets using either the straight-line or accelerated method, based on the useful life of the asset over which it is expected to be consumed utilizing expected undiscounted future cash flows. The Company will evaluate the potential impairment of intangible assets if events or changes in circumstances indicate that the carrying amount of the assets may not be fully recoverable or that the useful lives of these assets are no longer appropriate. Events giving rise to impairment are an inherent risk in our industry and many factors cannot be predicted. Factors that we consider in deciding when to perform an impairment review include significant changes in our forecasted projections for the asset or asset group for reasons including, but not limited to, significant under-performance of a product in relation to expectations, significant changes or planned changes in our use of the assets, significant negative industry or economic trends, and new or competing products that enter the marketplace. The impairment test is based on a comparison of the undiscounted cash flows expected to be generated from the use of the asset group and its eventual disposition to the carrying value of the asset group. If impairment is indicated, the asset is written down by the amount by which the carrying value of the asset exceeds the related fair value of the asset with the related impairment charge recognized within the statements of income.

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With respect to determining an asset's fair value and useful life, because this process involves management making certain estimates and these estimates form the basis of the determination of whether or not an impairment charge should be recorded, these estimates are considered to be critical accounting estimates.

*Goodwill*

Goodwill represents the excess of purchase price over the fair value of net assets acquired in the Eagle Biologics acquisition. Goodwill is not amortized, but is evaluated for impairment on an annual basis, in the fourth quarter, or more frequently if events or changes in circumstances indicate that the reporting unit's goodwill is less than its carrying amount. The Company did not identify any impairment to goodwill during the periods presented.

**Acquisition-Related Contingent Consideration**

Contingent consideration related to a business combination is recorded on the acquisition date at the estimated fair value of the contingent payments. The acquisition date fair value is measured based on the consideration expected to be transferred using probability-weighted assumptions and discounted back to present value. The discount rate used is determined at the time of the acquisition in accordance with accepted valuation methods. The fair value of the acquisition-related contingent consideration is re-measured at the estimated fair value at each reporting period with the change in fair value recognized as income or expense in the consolidated statements of income.

**Concentration of Major Customers and Vendors**

The Company is dependent on commercial partners to market and sell Argatroban and BENDEKA. The Company's customers for Argatroban and BENDEKA are its commercial and licensing partners; therefore, the Company's future revenues are highly dependent on these collaboration and distribution arrangements.

Teva markets BENDEKA pursuant to the BENDEKA License Agreement. Pursuant to the agreement, Teva pays the Company a royalty based on net sales of the product and also purchases the product from the Company. A disruption in this arrangement, caused by among other things, a supply disruption, loss of exclusivity or the launch of a superior product would have a material adverse effect of the Company's financial position, results of operations and cash flows.

The total revenues and accounts receivables broken down by major customers as a percentage of the total are as follows:

	<b>Three Months Ended June 30,</b>		<b>Six Months Ended June 30,</b>	
	<b>2019</b>	<b>2018</b>	<b>2019</b>	<b>2018</b>
<b>Net revenues</b>				
Cephalon, Inc. (Teva) - See Revenue Recognition	67%	70%	75%	76%
Other	33%	30%	25%	24%
	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>

	<b>June 30,</b>	<b>December 31,</b>
	<b>2019</b>	<b>2018</b>
<b>Accounts receivable</b>		
Cephalon, Inc. (Teva) - See Revenue Recognition	63%	61%
Other	37%	39%
	<u>100%</u>	<u>100%</u>

Currently, for Argatroban, the Company uses one vendor as its sole source supplier. Because of the unique equipment and process for manufacturing, transferring manufacturing activities to an alternate supplier would be a time consuming and costly endeavor.

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***Inventories***

Inventories are recorded at the lower of cost or expected net realizable value, with cost determined on a first-in first-out basis. The Company periodically reviews the composition of inventory in order to identify obsolete, slow-moving or otherwise non-saleable items. If non-saleable items are observed and there are no alternate uses for the inventory, the Company will record a write-down to net realizable value in the period that the decline in value is first recognized. In most instances, inventory is shipped from the Company's vendor directly to the Company's customers.

***Property and Equipment***

Property and equipment are stated at cost. Depreciation is recorded over the estimated useful lives of the assets utilizing the straight-line method. Leasehold improvements are being amortized over the shorter of their useful lives or the lease term.

***Research and Development Expense***

Costs for research and development are charged to expense as incurred and include; employee-related expenses including salaries, benefits, travel and stock-based compensation expense for research and development personnel; expenses incurred under agreements with contract research organizations, contract manufacturing organizations and service providers that assist in conducting clinical and preclinical studies; costs associated with preclinical activities and development activities, costs associated with regulatory operations; and depreciation expense for assets used in research and development activities.

Costs for certain development activities, such as clinical studies, are recognized based on an evaluation of the progress to completion of specific tasks using data such as patient enrollment, clinical site activations, or information provided to the Company by its vendors on their actual costs incurred. Payments for these activities are based on the terms of the individual arrangements, which may differ from the patterns of costs incurred, and are reflected in the condensed consolidated financial statements as prepaid expenses or accrued expenses as deemed appropriate. Recoveries of previously recognized research and development expenses from third parties are recorded as a reduction to research and development expense in the period it becomes realizable.

***Advertising and Marketing***

Advertising and marketing costs are expensed as incurred. Advertising and marketing costs were \$491 and \$1,118 for the three months ended June 30, 2019 and 2018, respectively and \$1,117 and \$2,013 for the six months ended June 30, 2019 and 2018.

***Income Taxes***

The Company accounts for income taxes using the liability method in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 740 - Income Taxes ("ASC 740"). Deferred tax assets and liabilities are determined based on temporary differences between financial reporting and tax bases of assets and liabilities and are measured by applying enacted rates and laws to taxable years in which differences are expected to be recovered or settled. Further, the effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that the rate changes. A valuation allowance is required when it is "more likely than not" that all or a portion of deferred tax assets will not be realized. ASC 740 also prescribes a comprehensive model for how a company should recognize, measure, present and disclose in its financial statements uncertain tax positions that the company has taken or expects to take on a tax return, including a decision whether to file or not file a return in a particular jurisdiction. We recognize any interest and penalties accrued related to unrecognized tax benefits as income tax expense.

***Revenue Recognition***

Revenue is recognized when a customer obtains control of promised goods or services, in an amount that reflects the consideration which the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, the Company performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the entity will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods or services promised within each

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contract and determines those that are performance obligations, and assesses whether each promised good or service is distinct. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied. Sales, value add, and other taxes collected on behalf of third parties are excluded from revenue. Receivables from our product sales have payment terms ranging from 30 to 75 days with select extended terms to wholesalers on initial purchases of product launch quantities. Our receivables from royalty revenue are due 45-days from the end of the quarter.

*Product revenue* - The Company recognizes net revenue on sales to its commercial partners and to end users. In each instance, revenue is generally recognized when the customer obtains control of the Company's product, which occurs at a point in time, and may be upon shipment or upon delivery based on the contractual shipping terms of a contract.

Revenue on sales to commercial partners relates to Argatroban and BENDEKA. Sales to our commercial partners are presented gross because the Company is primarily responsible for fulfilling the promise to provide the product, is responsible to ensure that the product is produced in accordance with the related supply agreement and bears risk of loss while the inventory is in-transit to the commercial partner.

Revenue is measured as the amount of consideration the Company expects to receive in exchange for transferring products or services to a customer. To the extent the transaction price includes variable consideration, the Company estimates the amount of variable consideration that should be included in the transaction price utilizing the expected value method to which the Company expects to be entitled. As such, revenue on sales to customers for Big Bag, Non-Alcohol Docetaxel Injection, Ryanodex and diclofenac-misoprostol are recorded net of chargebacks, rebates, returns, prompt pay discounts, wholesaler fees and other deductions. Our products are contracted with a limited number of oncology distributors and hospital buying groups with narrow differences in ultimate realized contract prices used to estimate our chargeback and rebate reserves. The Company has a product returns policy on some of its products that allows the customer to return pharmaceutical products within a specified period of time both prior to and subsequent to the product's expiration date. The Company's estimate of the provision for returns is analyzed quarterly and is based upon many factors, including historical experience of actual returns and analysis of the level of inventory in the distribution channel, if any. The Company has terms on sales of Ryanodex by which the Company does not accept returns. Variable consideration is included in the transaction price if, in the Company's judgment, it is probable that a significant future reversal of cumulative revenue under the contract will not occur. Estimates of variable consideration are made using the expected value method and determination of whether to include estimated amounts in the transaction price are based largely on an assessment of the Company's anticipated performance and all information (historical, current and forecasted) that is reasonably available. The Company believes that the estimates it has established are reasonable based upon current facts and circumstances. Applying different judgments to the same facts and circumstances could result in the estimated amounts to vary.

*Royalty Revenue* — The Company recognizes revenue from license arrangements with its commercial partners' net sales of products. In accordance with ASC 606-10-55-65, royalties are recognized when the subsequent sale of the commercial partner's products occurs. The Company's commercial partners are obligated to report their net product sales and the resulting royalty due to the Company within 25 days for BENDEKA and 60 days for Argatroban from the end of each quarter. Based on historical product sales, royalty receipts and other relevant information, the Company accrues royalty revenue each quarter and subsequently determines a true-up when it receives royalty reports from its commercial partners. Historically, these true-up adjustments have been immaterial.

*License and other revenue* — The Company analyzes each element of its licensing agreements to determine the appropriate revenue recognition. The terms of the license agreement may include payment to us of non-refundable up-front license fees, milestone payments if specified objectives are achieved, and/or royalties on product sales. The Company recognizes revenue from upfront payments at a point in time, typically upon fulfilling the delivery of the associated intellectual property to the customer.

If the contract contains a single performance obligation, the entire transaction price is allocated to the single performance obligation. Contracts that contain multiple performance obligations require an allocation of the transaction price based on the estimated relative standalone selling prices of the promised products or services underlying each performance obligation. The Company determines standalone selling prices based on the price at which the performance obligation is sold separately. If the standalone selling price is not observable through past transactions, the Company estimates the standalone selling price taking into account available information such as market conditions and internally approved pricing guidelines related to the performance obligations.

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The Company recognizes sales-based milestone payments as revenue upon the achievement of the cumulative sales amount specified in the contract in accordance with ASC 606-10-55-65. For those milestone payments which are contingent on the occurrence of particular future events, the Company determined that these need to be considered for inclusion in the calculation of total consideration from the contract as a component of variable consideration using the most-likely amount method. As such, the Company assesses each milestone to determine the probability and substance behind achieving each milestone. Given the inherent uncertainty of the occurrence of these future events, the Company will not recognize revenue from the milestone until there is not a high probability of a reversal of revenue, which typically occurs near or upon achievement of the event.

When determining the transaction price of a contract, an adjustment is made if payment from a customer occurs either significantly before or significantly after performance, resulting in a significant financing component. Applying the practical expedient in paragraph 606-10-32-18, the Company does not assess whether a significant financing component exists if the period between when the Company performs its obligations under the contract and when the customer pays is one year or less. None of the Company's contracts contained a significant financing component as of June 30, 2019.

*Collaborative licensing and development revenue* — The Company recognizes revenue from reimbursements received in connection with feasibility studies and development work for third parties when its contractual services are performed, provided collectability is reasonably assured. Its principal costs under these agreements include its personnel conducting research and development, its allocated overhead, as well as the research and development performed by outside contractors or consultants.

Upon termination of a collaboration agreement, any remaining non-refundable license fees received by the Company, which had been deferred, are generally recognized in full. All such recognized revenues are included in collaborative licensing and development revenue in its statements of income. The Company recognizes revenue from milestone payments received under collaboration agreements when earned, provided that the milestone event is substantive, its achievability was not reasonably assured at the inception of the agreement, the Company has no further performance obligations relating to the event, and collectability is reasonably assured. If these criteria are not met, the Company recognizes milestone payments ratably over the remaining period of its performance obligations under the collaboration agreement.

#### ***Stock-Based Compensation***

The Company accounts for stock-based compensation using the fair value provisions of ASC 718, Compensation - Stock Compensation that requires the recognition of compensation expense, using a fair-value based method, for costs related to all stock-based payments including stock options and restricted stock. This topic requires companies to estimate the fair value of the stock-based awards on the date of grant for options issued to employees and directors and record expense over the employees' service periods, which are generally the vesting period of the equity awards.

The Company accounts for stock-based compensation by measuring and recognizing compensation expense for all stock-based payments made to employees and directors based on estimated grant date fair values. The straight-line method is used to allocate compensation cost to reporting periods over each optionee's requisite service period, which is generally the vesting period. The fair value of the Company's stock-based awards to employees and directors is estimated using the Black-Scholes valuation model or a monte carlo simulation model. These models require the input of subjective assumptions, including the expected stock price volatility, the calculation of expected term, forfeitures and the fair value of the underlying common stock on the date of grant, among other inputs. The risk-free interest rate is determined with the implied yield currently available for zero-coupon U.S. government issues with a remaining term approximating the expected life of the options.

#### ***Earnings Per Share***

Basic earnings per common share is computed using the weighted average number of shares outstanding during the period. Diluted earnings per share is computed in a manner similar to the basic earnings per share, except that the weighted-average number of shares outstanding is increased to include all common shares, including those with the potential to be issued by virtue of warrants, options, convertible debt and other such convertible instruments. Diluted earnings per share contemplate a complete conversion to common shares of all convertible instruments only if they are dilutive in nature with regards to earnings per share.

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The anti-dilutive common shares equivalents outstanding at the three and six months ended June 30, 2019 and 2018 were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Options	2,476,452	1,884,614	2,607,566	1,892,614
Total	2,476,452	1,884,614	2,607,566	1,892,614

The following table sets forth the computation for basic and diluted net income per share for the three and six months ended June 30, 2019 and 2018:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
<b>Numerator</b>				
Numerator for basic and diluted earnings per share-net income	\$ 6,725	\$ 2,659	\$ 15,698	\$ 5,275
<b>Denominator</b>				
Basic weighted average common shares outstanding	13,782,720	14,879,040	13,853,580	14,849,449
Dilutive effect of stock options	373,907	567,787	322,717	624,278
Diluted weighted average common shares outstanding	14,156,627	15,446,827	14,176,297	15,473,727
<b>Basic net income per share</b>				
Basic net income per share	\$ 0.49	\$ 0.18	\$ 1.13	\$ 0.36
<b>Diluted net income per share</b>				
Diluted net income per share	\$ 0.48	\$ 0.17	\$ 1.11	\$ 0.34

**Recent Accounting Pronouncements**

*Recent Accounting Pronouncements - Not Yet Adopted*

In January 2017, the FASB issued guidance to simplify the measurement of goodwill. The guidance eliminates Step 2 from the goodwill impairment test. Instead, under the amendments in this guidance, an entity should perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, an entity should consider income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss. The guidance also eliminates the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. The guidance is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted for interim or annual goodwill impairment tests performed for testing dates after January 1, 2017. The guidance must be adopted on a prospective basis. We do not expect this guidance to have an impact on our condensed consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-13, Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirement for Fair Value Measurement (“ASU 2018-13”), which amends the disclosure requirements for fair value measurements. The amendments in ASU 2018-13 are effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company is currently evaluating the potential impact that the adoption of ASU 2018-13 may have on the Company's financial position and results of operations.

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*Recently Adopted Accounting Pronouncements*

The Company adopted FASB ASU No. 2016-02, "Leases (Topic 842)" (ASU 2016-02) as of January 1, 2019 to increase transparency and comparability among organizations, which included recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. Lessees are required to recognize a lease liability, which represents the discounted obligation to make future minimum lease payments, and a corresponding right-of-use asset on the balance sheet for most leases. The Company adopted ASU 2016-02 using the modified retrospective approach and did not recognize a cumulative-effect adjustment to the opening balance of Retained earnings. The Company elected a number of optional practical expedients permitted under the transition guidance within the new standard, which among other things, allowed us to carry forward the historical lease classification and that permits lease agreements that are twelve months or less to be excluded from the balance sheet. The primary impact upon adoption was the recognition, on a discounted basis, of the Company's minimum commitments under noncancelable operating leases as right of use assets and obligations on the condensed consolidated balance sheets, in an amount near \$3 million. The Company may enter into future long-term lease agreements or exercise renewal options contained in existing lease agreements that could have a material impact on the right of use assets and obligations reflected on the condensed consolidated balance sheets. Refer to Note 6 - Balance Sheet Accounts for further details.

#### **4. Acquisitions**

##### **Eagle Biologics Acquisition**

On November 16, 2016, the Company entered into a stock purchase agreement with Arsia Therapeutics, LLC ("Seller") ("Arsia SPA") to acquire Arsia Therapeutics, Inc., an early-stage biotechnology firm with proprietary viscosity-reducing technology and formulation know-how and subsequently renamed the subsidiary Eagle Biologics, Inc. ("Eagle Biologics"). Under the terms of the Arsia SPA, the Company paid approximately \$27.2 million in cash and 40,200 shares of Eagle common stock worth \$3.0 million at closing. The Company also agreed to pay up to \$48 million in additional payments upon the completion of certain milestones, for aggregate potential payments of \$78 million. As part of the agreement, Eagle Biologics founders and Massachusetts Institute of Technology professors, Dr. Robert Langer and Dr. Alexander Klivanov, as well as other key members of the Eagle Biologics team, entered into consulting agreements with the Company to develop new formulations and solve delivery challenges in large molecule products.

Eagle Biologics' platform technology enables subcutaneous administration of high-dose biologics through improved formulation. Eagle Biologics has developed early-stage partnerships with major pharmaceutical companies to apply its technology to their biosimilar molecules, create subcutaneous versions of currently-marketed intravenous products and produce high-concentration formulations of clinical candidates.

The acquisition was accounted for as a business combination in accordance with ASC 805, which requires the assets acquired and liabilities assumed from Eagle Biologics to be recorded on the acquisition date at their respective fair values. Eagle Biologics' results of operations are included in the financial statements from the date of acquisition.

On February 8, 2018, the Company entered into an amendment (the "Arsia Amendment") to the Arsia SPA. Pursuant to the Arsia Amendment, the Company's obligation to make four separate milestone payments pursuant to the Arsia SPA, which could have aggregated to a total of \$48 million, were terminated in exchange for a single payment of \$15 million.

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The following table summarizes the aggregate consideration transferred for the acquisition of Eagle Biologics:

Cash consideration paid	\$	27,209
Common stock issued (i)		3,046
Post-closing consideration paid to the Seller (ii)		15,000
Total consideration	\$	<u>45,255</u>

- (i) Under the Arsia SPA, the number of common shares to be issued to the Seller is equal to \$2.7 million divided by the average of the closing day price per share for the 30 trading days prior to the date of closing. The average price of the common stock of 30 days prior to closing was \$68.18. Accordingly, the number of shares of common stock to be issued to the Seller was determined at 40,200 shares (\$2.7 million divided by \$68.18 per share). The fair value of the common stock issued to the Seller was determined based on the closing price of the Company's common stock on November 16, 2016.
- (ii) Under the Arsia SPA, the contingent consideration included four separate milestone payments which could have aggregated to a total of \$48 million payable to the Seller upon achievement of certain clinical, regulatory and development milestones. In accordance with the provisions of ASC 805-30-25-5, each unit of contingent consideration is recognized at the acquisition date fair value. The acquisition date fair value of the contingent consideration was \$16.1 million. Such fair values are determined based on a probabilistic model with weights assigned on the likelihood of the Company achieving the clinical, regulatory and development milestones as well as an acceleration event in the future. Each unit of contingent consideration is classified as a liability in the balance sheet and would be subsequently measured at fair value on each reporting date. Any future change in fair value would be recognized in the statement of operations. As described above, on February 8, 2018, the Company entered into the Arsia Amendment, pursuant to which the Company's obligations to make four separate milestone payments under the Arsia SPA were terminated in exchange for a single payment of \$15 million to the Seller.

**5. Inventories**

Inventories consist of the following:

	June 30, 2019	December 31, 2018
Raw material	\$ 4,277	\$ 6,303
Work in process	6,187	1,776
Finished products	1,130	225
	<u>\$ 11,594</u>	<u>\$ 8,304</u>

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**6. Balance Sheet Accounts**

***Prepaid and Other Current Assets***

Prepaid and other current assets consist of the following:

	<b>June 30, 2019</b>	<b>December 31, 2018</b>
Prepaid income taxes	\$ 3,001	\$ 5,739
Prepaid FDA user fee	1,042	1,540
Prepaid insurance	646	150
Advances to commercial manufacturers	643	2,700
All other	266	134
Total Prepaid expenses and other current assets	<u>\$ 5,598</u>	<u>\$ 10,263</u>

***Accrued Expenses***

Accrued expenses consist of the following:

	<b>June 30, 2019</b>	<b>December 31, 2018</b>
Accrued sales reserves	\$ 11,699	\$ 5,869
Royalties payable to commercial partners	7,135	7,139
Accrued salary and other compensation	3,684	5,049
Accrued professional fees	2,885	2,408
Accrued research & development	1,525	1,245
Current portion of lease liability	1,051	—
Accrued other	1,471	1,809
Total Accrued expenses	<u>\$ 29,450</u>	<u>\$ 23,519</u>

***Adoption of FASB ASU No. 2016-02, “Leases (Topic 842)” as of January 1, 2019***

The Company leases its corporate office under an amended lease agreement that expires on June 30, 2020. The Company also leases lab space under a lease agreement that expires on October 31, 2023. The Company estimated the right of use asset and the corresponding lease liability, on a discounted basis, as of the adoption date of January 1, 2019.

For the Company’s two operating leases, the depreciation and interest expense components are combined and recognized ratably over the remaining term of the lease as research and development and selling, general and administrative in the Company’s statements of income, respectively.

The Company used its estimated incremental borrowing rate to calculate the present value of the ROU assets and lease liabilities as of the date of adoption date. The implicit interest rate related to the Company’s two lease agreements was not known as of the date of adoption. Therefore, the Company calculated an incremental borrowing rate based on the rate of interest that the Company would have to pay to borrow on a collateralized basis over a similar term and amount equal to the lease payments in a similar economic environment.

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Lease related disclosures consist of the following:

	<b>June 30, 2019</b>
Right of use (ROU) asset, net included in Other assets	\$ 2,483
Lease liability included with Other long-term liabilities	\$ 1,560
Lease liability included with Accrued expenses and other liabilities	\$ 1,051
Q2 2019 depreciation of ROU asset	\$ 261
Q2 2019 related rent expense	\$ 286
YTD 2019 depreciation of ROU asset	\$ 522
YTD 2019 related rent expense	\$ 573
YTD operating cash flows from operating leases	\$ 573
YTD operating lease costs	\$ 573
Weighted-average remaining lease term - operating leases	2.8 years
Weighted-average discount rate - operating leases	6.4%

As of December 31, 2018, the future minimum lease commitments for the Company's two leases were as follows:

<b>Total</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
\$ 3,661	\$ 1,146	\$ 864	\$ 583	\$ 583	\$ 485

## 7. Intangible Assets, Net

The gross carrying amounts and net book value of the Company's intangible assets are as follows:

		<b>June 30, 2019</b>		
	<b>Useful Life (In Years)</b>	<b>Gross Carrying Amount</b>	<b>Accumulated Amortization</b>	<b>Net Book Value</b>
Ryanodex intangible (i)	20	\$ 15,000	\$ (2,004)	\$ 12,996
Developed technology	5	8,100	(4,253)	3,847
Total		\$ 23,100	\$ (6,257)	\$ 16,843

		<b>December 31, 2018</b>			
	<b>Useful Life (In Years)</b>	<b>Gross Carrying Amount</b>	<b>Accumulated Amortization</b>	<b>Impairment Charge</b>	<b>Net Book Value</b>
Docetaxel product rights	10	\$ 11,220	\$ (1,281)	\$ (9,939)	\$ —
Ryanodex intangible	20	15,000	(1,554)	—	13,446
Developed technology	5	8,100	(3,443)	—	4,657
Total		\$ 34,320	\$ (6,278)	\$ (9,939)	\$ 18,103

(i) Represent payments made to reduce the royalties payable to a third party on Ryanodex net sales.

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Amortization expense was \$630 and \$646 for the three months ended June 30, 2019 and 2018, respectively and \$1,260 and \$1,316 for the six months ended June 30, 2019 and 2018, respectively.

*Intangible Asset Impairment*

During the year ended December 31, 2017, the Company experienced a decline in customer contracts and saw a drop in market pricing for Non-Alcohol Docetaxel Injection. Accordingly, the Company estimated the fair value of the Company's Non-Alcohol Docetaxel Injection product and determined the carrying amount of the intangible asset was no longer fully recoverable, resulting in a pre-tax, non-cash asset impairment charge of \$7.2 million during the year ended December 31, 2017.

On June 30, 2018, the Company implemented a restructuring initiative based on its assessment of the current product portfolio and made a decision to discontinue manufacture and distribution of Non-Alcohol Docetaxel Injection. The Company ceased selling the product by September 30, 2018. As a result, the Company recognized a pre-tax, non-cash asset impairment charge of \$2.7 million in the second quarter of 2018.

*Estimated Amortization Expense for Intangible Assets*

Based on definite-lived intangible assets recorded as of June 30, 2019, and assuming that the underlying assets will not be impaired and that the Company will not change the expected lives of the assets, future amortization expenses are estimated as follows:

	<b>Estimated Amortization Expense</b>
Year Ending December 31,	
2019 (remainder)	1,260
2020	2,666
2021	2,622
2022	1,369
2023	1,570
Thereafter	7,356
Total estimated amortization expense	<u>\$ 16,843</u>

**8. Common Stock and Stock-Based Compensation**

**Common Stock**

On October 30, 2018, the Company announced a new repurchase program approved by the Board of Directors pursuant to which the Company may repurchase of up to \$150 million of its outstanding common stock, consisting of (i) up to \$50 million in repurchases pursuant to an accelerated share repurchase agreement (the "ASR"), with JPMorgan Chase Bank, N.A. ("JPMorgan"), and (ii) up to \$100 million in additional repurchases (collectively, the "2018 Share Repurchase Program"). In connection with its approval of the 2018 Share Repurchase Program, the Board of Directors terminated the Company's 2016 Share Repurchase Program and 2017 Share Repurchase Program in October 2018. Under the 2018 Share Repurchase Program, the Company is authorized to repurchase shares through open market purchases, privately-negotiated transactions, accelerated share repurchases or otherwise in accordance with applicable federal securities laws, including through Rule 10b5-1 trading plans and under Rule 10b-18 of the Exchange Act. Under the 2018 Share Repurchase Program, the additional repurchases have no time limit and may be suspended or discontinued completely at any time. The specific timing and amount of repurchases will vary based on available capital resources and other financial and operational performance, market conditions, securities law limitations, and other factors. The repurchases will be made using the Company's cash resources.

In connection with the 2018 Share Repurchase Program, on October 30, 2018, the Company entered into the ASR with JPMorgan to repurchase an aggregate of \$50 million of the Company's common stock. Under the terms of the ASR, the

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Company paid \$50 million to JPMorgan on November 1, 2018, and received 702,988 shares, representing approximately 80% of the notional amount of the ASR, based on the closing price of \$56.90 on October 29, 2018. Upon settlement of the ASR, the final number of shares repurchased were trued up based on the average of the daily volume weighted average share prices of the Company's common stock, less a discount, during the term of the ASR. The Company received 297,146 additional shares on December 6, 2018, the termination date of the ASR, for an aggregate of 1,000,134 shares from the ASR. As of June 30, 2019, the Company had repurchased an aggregate of 2,855,316 shares of common stock for \$168.9 million pursuant to its share repurchase programs, including the ASR.

**Stock-Based Compensation**

In November 2013, the Company's Board of Directors approved the 2014 Equity Incentive Plan (the "2014 Plan") which became effective on February 11, 2014. The 2014 Plan provides for the awards of incentive stock options, non-qualified stock options, restricted stock, restricted stock units and other stock-based awards. Awards generally vest equally over a period of four years from grant date. Vesting may be accelerated under a change in control of the Company or in the event of death or disability to the recipient. In the event of termination, any unvested shares or options are forfeited.

During the three months ended March 31, 2018, the Company introduced a new long-term incentive program with the objective to better align the stock-based awards granted to management with the Company's focus on improving total shareholder return over the long-term. The stock-based awards granted under this long-term incentive program consist of time-based stock options, time-based restricted stock units ("RSUs") and performance-based stock units ("PSUs"). PSUs are comprised of awards that vest upon achievement of certain share price appreciation conditions.

A summary of stock option, RSU and PSU activity under the 2014 Plan during the six months ended June 30, 2019 and 2018 is presented below:

	Stock Options	RSUs	PSUs
Outstanding at December 31, 2017	2,786,568	—	—
Granted	636,625	64,080	127,080
Options Exercised/RSUs Vested/PSUs Vested	(453,884)	—	—
Forfeited or expired	(306,578)	(9,557)	(9,557)
Outstanding at June 30, 2018	2,662,731	54,523	117,523
Outstanding at December 31, 2018	2,556,365	54,219	117,219
Granted	579,133	211,829	—
Options Exercised/RSUs Vested/PSUs Vested	(7,382)	(13,555)	—
Forfeited or expired	(17,622)	(531)	(709)
Outstanding at June 30, 2019	3,110,494	251,962	116,510

*Stock Options*

The fair value of stock options granted to employees, directors, and consultants were estimated using the following assumptions:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Risk-free interest rate	1.97% - 2.41%	2.60% - 2.94%	1.97% - 2.61%	2.30% - 2.94%
Volatility	50.16%	43.76%	50.45%	43.76%
Expected term (in years)	6.08 years	6.08 years	5.98 years	5.50 - 6.08 years
Expected dividend yield	0.0%	0.0%	0.0%	0.0%

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*RSUs*

Each vested time-based RSU represents the right of a holder to receive one share of the Company's common stock. The fair value of each RSU granted was estimated based on the trading price of the Company's common stock on the date of grant.

*PSUs*

The fair value of PSUs granted to employees was estimated using a monte carlo simulation model. Inputs used in the calculation include a risk-free interest rate of 2.06%, an expected volatility of 47%, contractual term of 3 years, and no expected dividend yield.

The Company recognized stock-based compensation in its condensed consolidated statements of income for the three and six months ended June 30, 2019 and 2018 as follows:

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Stock options	\$ 3,967	\$ 3,784	\$ 8,395	\$ 8,211
RSUs	643	175	1,251	337
PSUs	772	776	1,518	1,492
Stock-based compensation expense	<u>\$ 5,382</u>	<u>\$ 4,735</u>	<u>\$ 11,164</u>	<u>\$ 10,040</u>
Selling, general and administrative	\$ 4,286	\$ 3,732	\$ 8,925	\$ 7,777
Research and development	1,096	1,003	2,239	2,263
Stock-based compensation expense	<u>\$ 5,382</u>	<u>\$ 4,735</u>	<u>\$ 11,164</u>	<u>\$ 10,040</u>

**9. Commitments**

Our future material contractual obligations as of June 30, 2019 include the following:

<b>Obligations</b>	<b>Total</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>Beyond</b>
Operating leases (1)	\$ 3,088	\$ 573	\$ 864	\$ 583	\$ 583	\$ 485	\$ —	\$ —
Credit facility	41,250	2,500	38,750	—	—	—	—	—
Purchase obligations (2)	29,362	29,362	—	—	—	—	—	—
Total obligations	<u>\$ 73,700</u>	<u>\$ 32,435</u>	<u>\$ 39,614</u>	<u>\$ 583</u>	<u>\$ 583</u>	<u>\$ 485</u>	<u>\$ —</u>	<u>\$ —</u>

(1) We lease our corporate office location. This lease will expire in June 2020. The Company also leases its lab space under a lease agreement that expires on October 31, 2023. Rental expense was \$286 and \$135, for the three months ended June 30, 2019 and 2018. Rental expense was \$573 and \$288 for the six months ended June 30, 2019 and 2018. The remaining future lease payments under the operating lease are \$3,088 as of June 30, 2019.

(2) As of June 30, 2019, the Company has purchase obligations in the amount of \$29,362 which represents the contractual commitments under contract manufacturing and supply agreements with suppliers. The obligation under the supply agreement is primarily for finished product, inventory, and research and development.

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**10. Debt**

On August 8, 2017, the Company entered into an Amended and Restated Credit Agreement (the “Amended Credit Agreement”), with JPMorgan Chase Bank, N.A., as administrative agent (the “Agent”) and the lenders party thereto, which amended and restated the Company’s existing credit agreement, dated as of January 26, 2017. The Amended Credit Agreement provides for a 3-year \$50 million revolving credit facility and a 3-year \$100 million term loan facility (which are collectively referred to as the “Amended Credit Facility”). The Amended Credit Facility is subject to certain financial covenants. As of June 30, 2019, the Company was in compliance with all required covenants. As of June 30, 2019, the Company has \$407 of unamortized deferred debt issuance costs as part of long-term debt in its condensed consolidated balance sheets.

On the date of the amendment, \$50 million of the term loan facility was drawn, and none of the revolving credit facility has been drawn. Although the Company was permitted to make one other draw on the term loan facility on or before February 4, 2018, the Company elected not to draw down further on the term loan facility. The Amended Credit Facility includes a \$5 million letter of credit subfacility. The Company anticipates that the draw at closing and future draws under the Amended Credit Facility, if any, will be used to finance the 2018 Share Repurchase Program and for other corporate purposes. Loans under the Amended Credit Facility bear interest, at the Company’s option, at a rate equal to either (a) the LIBOR rate, plus an applicable margin ranging from 2.25% to 3.0% per annum, based upon the total net leverage ratio (as defined in the Amended Credit Agreement), or (b) the prime lending rate, plus an applicable margin ranging from 1.25% to 2.0% per annum, based upon the total net leverage ratio. The Company is required to pay a commitment fee on the unused portion of the Amended Credit Facility at a rate ranging from 0.35% to 0.45% per annum based upon the total net leverage ratio. The Company is permitted to terminate or reduce the revolving commitments or term commitments of the lenders and to make voluntary prepayments at any time subject to break funding payments. The Company is required to make mandatory prepayments of outstanding indebtedness under the Amended Credit Agreement (a) upon receipt of proceeds from certain sales, transfers or other dispositions, casualty and other condemnation events and the incurrence of certain indebtedness other than indebtedness permitted, subject to customary reinvestment exceptions and (b) in the case that the aggregate amount of all outstanding loans and letters of credit issued under the Amended Credit Facility exceed the aggregate commitment of all lenders under the Amended Credit Facility. The Company is obligated to repay the term loan facility on the last day of each March, June, September and December in an aggregate principal amount equal to 2.5% during the term of the loan.

<b>Debt Maturities</b>	<b>As of June 30, 2019</b>	
2019 (remainder)	\$	2,500
2020		38,750
Total	\$	<u>41,250</u>

**11. Income Taxes**

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2019</u>	<u>2018</u>	<u>2019</u>	<u>2018</u>
Income tax (provision) benefit	\$ (2,480)	\$ 3,176	\$ (5,484)	\$ 4,137
Effective tax rate	27%	614%	26%	(364)%

For interim periods, we recognize an income tax (provision) benefit based on our estimated annual effective tax rate expected for the entire year plus the effects of certain discrete items occurring in the quarter. The interim annual estimated effective tax rate is based on the statutory tax rates then in effect, as adjusted for changes in estimated temporary and estimated permanent differences, and certain discrete items whose tax effect, when material, is recognized in the interim period in which they occur.

The provision for income taxes was based on the applicable federal and state tax rates for those periods. The effective tax rate for the three and six months ended June 30, 2019 reflects the impact of certain non-deductible executive compensation partially offset by credits for research and development activity. The effective tax rate for the three and six months ended June 30, 2018 reflects tax benefits related to stock option exercises in the period as well as credits for research and development activity.

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Deferred income tax assets as of June 30, 2019 consist of temporary differences primarily related to stock-based compensation and research and development tax credit carryforwards, partially offset by temporary differences related to intangible assets.

The Company files income tax returns in the U.S. federal jurisdiction and several states. Given that the Company has incurred tax losses since its inception, all of the Company's tax years are effectively open to examination. The Company is currently under audit by one State tax jurisdiction. The Company has no amount recorded for any unrecognized tax benefits as of June 30, 2019. The Company regularly evaluates its tax positions for additional unrecognized tax benefits and associated interest and penalties, if applicable. There are many factors that are considered when evaluating these tax positions including: interpretation of tax laws, recent tax litigation on a position, past audit or examination history, and subjective estimates and assumptions. The Company reflects interest and penalties attributable to income taxes, to the extent they arise, as a component of income tax provision or benefit.

## **12. Legal Proceedings**

In addition to the below legal proceedings, from time to time, the Company may be a party to litigation and subject to claims incident to the ordinary course of business. Although the results of litigation and claims cannot be predicted with certainty, the Company currently believes that the final outcome of these ordinary course matters, or matters discussed below, will not have a material adverse effect on the Company's business nor has the Company recorded any loss in connection with these matters because the Company believes that loss is neither probable nor estimable. Regardless of the outcome, litigation can have an adverse impact on the Company because of defense and settlement costs, diversion of management resources and other factors.

### **Commercial Litigation**

#### *In Re: Taxotere (Docetaxel)*

On February 1, 2017, the Company was named as a defendant, among various other manufacturers, in several product liability suits that are consolidated in the U.S. District Court for the Eastern District of Louisiana as part of MDL 2740 (Civil Action No 2:16 md-2740). The claims are for personal injuries allegedly arising out of the use of docetaxel.

In March 2017, the Company reached agreements in principle with the Plaintiffs' Steering Committee in this matter to voluntarily dismiss the Company from all of the lawsuits in which it was named and from the master complaint. The Company is in the process of working with the other parties in this matter to have it removed from the Multidistrict litigation entirely. As part of the agreement, in the event a case is brought in the future with facts that justify the Company's inclusion, the plaintiffs reserved the right to include the Company in such matter. The plaintiffs have filed several additional lawsuits since the parties' agreement in principle to dismiss, and the Company is in the process of working with plaintiffs to explore the possibility of dismissing those lawsuits.

#### *Eagle v. Burwell*

On April 27, 2016, the Company filed an action in the U.S. District Court for the District of Columbia against the FDA and other federal defendants seeking an order requiring the FDA to recognize orphan drug exclusivity for Bendeka for the treatment of CLL and indolent B-cell NHL. On June 8, 2018, the Court issued a decision requiring the FDA to recognize seven years of orphan drug exclusivity in the U.S. for Bendeka, and on July 6, 2018 the FDA recognized such ODE until December 7, 2022. In addition, on July 6, 2018, the FDA submitted a Motion to Alter or Amend the Judgement Pursuant to Rule 59(e), pursuant to which the FDA requested that the Court amend its decision to make clear that the decision does not affect any applications referencing TREANDA. The FDA's motion was denied by the Court on August 1, 2018 on the grounds that the FDA had not satisfied the standard for altering or amending the judgment. The FDA and two intervenors have appealed the Court's final judgment to the U.S. Court of Appeals for the District of Columbia Circuit. The briefing schedule issued by the Court of Appeals provides for briefing in those appeals to be completed by July 29, 2019. On February 20, 2019, the FDA issued a decision in favor of the Company, regarding the scope of exclusivity for Bendeka. Pursuant to the decision, no bendamustine product used to treat the same indications (including generic versions of TREANDA) may launch in the United States until December 7, 2022 unless it is clinically superior to Bendeka. The Company expects to vigorously pursue the scope of its exclusivity grant.

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*Eagle v. Eli Lilly*

On August 24, 2017, the Company filed an antitrust complaint in the United States District Court for the District of New Jersey (“New Jersey District Court”) against Eli Lilly and Company (“Lilly”). The complaint alleges that Lilly engaged in anticompetitive conduct which restrained competition by delaying and blocking the Company’s launch of a competing pemetrexed injection product (to compete with Lilly’s Alimta). Lilly accepted service and answered the complaint on October 27, 2017. Lilly also filed a motion to transfer this case to Delaware on October 27, 2017. The Company filed a motion to oppose such transfer on November 6, 2017. On July 20, 2018, the New Jersey District Court transferred the case to Delaware. On November 27, 2018, the Delaware Court stayed the case at least until conclusion of the PEMFEXY™ patent trial described below.

*Chiesi v. Eagle*

On October 3, 2018, Chiesi USA, Inc. filed a complaint against Eagle in the Superior Court of Wake County, North Carolina. The complaint alleges that Eagle has failed to provide adequate information regarding the sales of Argatroban pursuant to a License and Development Agreement between the parties. On July 17, 2019, Chiesi USA dismissed the actions without prejudice.

**Patent Litigation**

*Eli Lilly and Company. v. Eagle Pharmaceuticals, Inc. (PEMFEXY™ (Pemetrexed))*

On August 14, 2017, Lilly filed suit against the Company in the United States District Court for the Southern District of Indiana (the “Indiana Suit”). Lilly alleged patent infringement based on the filing of the Company’s 505(b)(2) NDA seeking approval to manufacture and sell the Company’s EP-5101. EP-5101, if finally approved by FDA, will be a branded alternative to Alimta®.

On September 8, 2017, Eagle moved to dismiss the Indiana Suit for improper venue. On September 11, 2017, Lilly voluntarily dismissed the Indiana Suit. It then filed a complaint in the United States District Court for the District of Delaware, alleging similar patent infringement claims (the “Delaware Suit”). Eagle answered and filed various counterclaims in the Delaware Suit on October 3, 2017. Lilly answered Eagle’s counterclaims on October 24, 2017. The Court held a scheduling conference on December 11, 2017 and set trial in the Delaware Suit to begin on September 9, 2019. On May 31, 2018, Eagle filed a Motion for Judgment on the Pleadings, which the Court denied on October 26, 2018. On January 23, 2019, the Court held a Markman hearing. Trial is scheduled to begin on September 9, 2019. The Delaware Suit is pending.

*Eagle Pharmaceuticals, Inc., et al. v. Slayback Pharma Limited Liability Company; Eagle Pharmaceuticals, Inc., et al. v. Apotex Inc. and Apotex Corp.; Eagle Pharmaceuticals, Inc., et al. v. Fresenius Kabi USA, LLC; Eagle Pharmaceuticals, Inc., et al. v. Mylan Laboratories Limited; Eagle Pharmaceuticals, Inc. et al. v. Hospira, Inc. - (BENDEKA®)*

BENDEKA®, which contains bendamustine hydrochloride, is an alkylating drug that is indicated for the treatment of patients with chronic lymphocytic leukemia, as well as for the treatment of patients with indolent B-cell non-Hodgkin's lymphoma that has progressed during or within six months of treatment with rituximab or a rituximab-containing regimen. Five companies - Slayback Pharma Limited Liability Company (“Slayback”), Apotex Inc. and Apotex Corp. (“Apotex”), Fresenius Kabi USA, LLC (“Fresenius”), Mylan Laboratories Limited (“Mylan”), and Lupin - have filed Abbreviated New Drug Applications (“ANDAs”) referencing BENDEKA® that include challenges to one or more of the BENDEKA® Orange Book-listed patents. Hospira, Inc. (“Hospira”) filed a 505(b)(2) NDA.

The Company, Cephalon, Inc. and/or Teva Pharmaceuticals International GMBH (together the “Patentees”), filed separate suits against Slayback, Apotex, Fresenius, Mylan, Hospira, and Lupin in the United States District Court for the District of Delaware on August 16, 2017 (Slayback (“Slayback I”)), August 18, 2017 (Apotex), August 24, 2017 (Fresenius), December 12, 2017 (Mylan), January 19, 2018 (Slayback (“Slayback II”)), July 19, 2018 (Hospira), and July 2, 2019 (Lupin). In these Complaints, the Patentees allege infringement of the challenged patents, namely U.S. Patent Nos. 8,791,270 and 9,572,887 against Slayback (Slayback I and Slayback II), and of U.S. Patent Nos. 8,609,707, 8,791,270, 9,000,021, 9,034,908, 9,144,568, 9,265,831,

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9,572,796, 9,572,797, 9,572,887, 9,579,384, 9,597,397, 9,597,398, 9,597,399 against Fresenius, Apotex, and Mylan, and of U.S. Patent Nos. 9,572,887, 10,010,533, 9,034,908, 9,144,568, 9,597,397, 9,597,398, 9,597,399, 9,000,021, 9,579,384 against Hospira, and of U.S. Patent Nos. 8,609,707, 9,000,021, 9,034,908, 9,144,568, 9,265,831, 9,572,796, 9,572,797, 9,572,887, 9,579,384, 9,597,397, 9,597,398, 9,597,399, 10,010,533, and 10,052,385 against Lupin. The parties stipulated to dismiss without prejudice U.S. Patent No. 8,791,270 as to Apotex, Fresenius and Mylan on July 24, 2018, August 2, 2018, and August 3, 2018, respectively. Slayback, Apotex, Fresenius, and Mylan answered their Complaints and some filed various counterclaims on September 29, 2017 (Slayback I), February 12, 2018 (Slayback II), November 27, 2017, September 15, 2017, and February 14, 2018, respectively. The Patentees answered the Slayback I, Slayback II, Fresenius, and Apotex counterclaims on October 20, 2017, March 5, 2018, October 6, 2017, and December 18, 2017, respectively. The Slayback I, Slayback II, Apotex, Fresenius and Mylan cases have been consolidated for all purposes, with Trial scheduled to begin September 9, 2019. On October 15, 2018, the Patentees filed a suit against Fresenius and Mylan in the United States District Court for the District of Delaware, alleging patent infringement of U.S. Patent Nos. 10,010,533 and 10,052,385. Hospira filed a motion to dismiss the case, which was fully briefed on November 16, 2018. All eight cases are pending.

The FDA is stayed from approving Apotex's, Fresenius', Mylan's, and Lupin's ANDA's, and Hospira's 505(b)(2) application, until the earlier of (1) January 7, 2020, January 14, 2020, April 30, 2020, November 21, 2021, and December 20, 2020 respectively (the "30-month stay dates"); and (2) a court decision that each of the challenged patents is not infringed, invalid, or unenforceable. The 30-month stay dates may be shortened or lengthened if either party to the action fails to reasonably cooperate in expediting the action. The FDA cannot approve Slayback's ANDA until March 2033.

*Eagle Pharmaceuticals, Inc. v. Slayback Pharma Limited Liability Company*

Slayback Pharma Limited Liability Company ("Slayback") filed an ANDA referencing Eagle's Big Bag. Slayback's ANDA includes challenges to one or more of the Big Bag Orange Book-listed patents. On September 20, 2018, the Company filed a suit against Slayback in the United States District Court for the District of Delaware, alleging patent infringement of U.S. Patent Nos. 8,609,707, 9,265,831, 9,572,796, 9,572,797 and 10,010,533. On October 10, 2018, Slayback answered the Complaint and filed various counterclaims. On October 31, 2018, the Company answered Slayback's counterclaims. This case is currently stayed.

*Eagle Pharmaceuticals, Inc. v. Slayback Pharma Limited Liability Company*

Slayback filed a 505(b)(2) NDA referencing Eagle's Big Bag. Slayback's NDA includes challenges to one or more of the Big Bag Orange Book-listed patents. On December 11, 2018, the Company filed a suit against Slayback in the United States District Court for the District of Delaware, alleging patent infringement of U.S. Patent Nos. 9,265,831, 9,572,796, 9,572,797, and 10,010,533. On January 4, 2019, Slayback filed a motion for judgment on the pleadings. On May 9, 2019, the United States District Court for the District of Delaware granted Slayback's motion for judgment on the pleadings. On July 23, 2019, the Company filed an appeal of this decision with the United States Court of Appeals for the Federal Circuit.

*Par Pharmaceutical, Inc. et al. v. Eagle Pharmaceuticals, Inc. (Vasopressin)*

On May 31, 2018, Par Pharmaceutical, Inc., Par Sterile Products, LLC, and Endo Par Innovation Company, LLC (together "Par") filed suit against the Company in the United States District Court for the District of Delaware. Par alleged patent infringement based on the filing of the Company's ANDA seeking approval to manufacture and sell the Company's vasopressin product. The Company's vasopressin product, if approved by FDA, will be an alternative to Vasostriect, which is indicated to increase blood pressure in adults with vasodilatory shock (e.g., post-cardiotomy or sepsis) who remain hypotensive despite fluids and catecholamines. The Company answered the complaint on August 6, 2018. The court issued a Markman ruling on July 1, 2019. Trial is scheduled to begin May 18, 2020. This suit is pending.

*Eagle Pharmaceuticals, Inc. et al. v. Accord (Argatroban)*

On March 27, 2019, the Company and Chiesi USA, Inc. ("Chiesi") filed suit against Accord Healthcare, Inc. ("Accord") in the United States District Court for the District of New Jersey (the "New Jersey suit") and in the United States District Court for the Middle District of North Carolina (the "North Carolina suit") (together "the suits"). The suits alleged patent infringement

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based on Accord's 505(b)(2) NDA seeking approval to manufacture and sell Accord's proposed argatroban product. On May 21, 2019, the Company and Chiesi voluntarily dismissed the North Carolina suit. On July 10, 2019, Accord moved for judgment on the pleadings in the New Jersey suit. The New Jersey suit is currently pending.

**13. Restructuring**

In June 2018, as part of its ongoing organizational review, the Company engaged in a restructuring initiative to rationalize its product portfolio and focus its physical sites. These measures included the discontinuation of manufacture and distribution of Non-Alcohol Docetaxel Injection and rationalization of research and development operations. A restructuring charge of \$7,388 for the three and six months ended June 30, 2018 was recorded to Restructuring charge on the Condensed Consolidated Statements of Income and consisted of inventory write-downs, and certain asset impairment charges related to property and equipment. The Company had settled all liabilities related to this restructuring as of December 31, 2018.

**14. Related Party Transaction**

On May 10, 2019, Hudson Executive Capital LP ("Hudson Capital") sold 100,000 shares of the Company's common stock and the Company purchased those 100,000 shares in a block trade at a price of \$56.14 per share. Douglas Braunstein is the Managing Partner of Hudson Capital and a member of Eagle's Board of Directors.

**15. Subsequent Event**

On August 8, 2019, we entered into an amendment to a lease for additional office space and extend our existing lease at our corporate office location. The amended lease will expire on June 30, 2025. The future minimum lease payments under this operating lease are approximately \$4.0 million.

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following information should be read in conjunction with the unaudited financial information and the notes thereto included in this Quarterly Report on Form 10-Q and the audited financial information and the notes thereto included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the SEC on February 28, 2019. Unless otherwise indicated or required by context, reference throughout to "Eagle," the "Company," "we," "our," or "us" refer to financial information and transactions of Eagle Pharmaceuticals, Inc.

### Forward-Looking Information

This Quarterly Report on Form 10-Q contains forward-looking statements, within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, that involve risks and uncertainties. The words "may," "will," "plan," "believe," "expect," "intend," "anticipate," "potential," "should," "estimate," "predict," "project," "would," and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. Such forward-looking statements involve known and unknown risks, uncertainties, and other factors that may cause actual results to differ materially from those projected in the forward-looking statements.

Readers are cautioned that these forward-looking statements are only predictions and are subject to risks, uncertainties, and assumptions that are difficult to predict, including those identified under Part I, Item 1A. "Risk Factors," in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the SEC on February 28, 2019, as updated in our Quarterly Reports on Form 10-Q subsequently filed during the current fiscal year. Therefore, actual results may differ materially and adversely from those expressed in any forward-looking statements. Furthermore, such forward-looking statements speak only as of the date of this report. We undertake no obligation to revise or update any forward-looking statements for any reason, except as required by law.

### Overview

Our business model is to develop proprietary innovations to FDA-approved, injectable drugs that offer commercial and/or functional advantages to currently available alternatives. We have historically been, and will continue to primarily be, focused on developing and commercializing injectable drugs, primarily in the critical care and oncology areas, using the United States Food and Drug Administration ("FDA")'s 505(b)(2) New Drug Application ("NDA") regulatory pathway. With our addition of Eagle Biologics, we hope to apply our proven market strategy to offer "biobetter" formulations, and to rapidly develop novel biologic products under the pathway provided by the Biologics Price Competition and Innovation Act. In addition, we plan to continue to market and/or commercialize our products through marketing partners and/or through our growing internal direct sales force.

Our product portfolio now includes four approved products: Argatroban, Ryanodex® (dantrolene sodium) ("Ryanodex"), rapidly infused bendamustine RTD 50ml solution ("BENDEKA") and Eagle's bendamustine RTD 500ml solution ("Big Bag"). We have three commercial partners: Chiesi USA, Inc. ("Chiesi") and Sandoz Inc. ("Sandoz"), who, pursuant to separate agreements, market Argatroban and Teva Pharmaceutical Industries Ltd. ("Teva"), which, through its subsidiary Cephalon, Inc. ("Cephalon"), markets BENDEKA®. BENDEKA was commercially launched by Teva in January 2016. We launched Big Bag in May 2018 with our commercial team immediately after receiving FDA approval.

We currently have multiple product candidates in advanced stages of development and/or under review for approval by the FDA. Additionally, we have other product candidates under a collaborative agreement. Our advanced product candidates are EP-4104 (dantrolene sodium for exertional heat stroke ("EHS")) ("EP-4104"), EP-5101 (PEMFEXY™, a pemetrexed injection ready-to-dilute formulation) ("EP-5101") and EGL-5385-C-1701 (fulvestrant).

### Recent Developments

On February 8, 2018, we entered into an amendment (the "Amendment") to the stock purchase agreement dated November 16, 2016 (the "Arsia SPA"). Pursuant to the Arsia SPA, we acquired from Arsia Therapeutics, LLC (the "Seller") all of the outstanding capital stock of Arsia Therapeutics, Inc. (now Eagle Biologics). Pursuant to the Amendment, our obligations to make four separate milestone payments pursuant to the Arsia SPA, which could have aggregated to a total of \$48 million, were terminated in exchange for a single payment of \$15 million to the Seller.

In March 2018, the Company announced that the United States Patent and Trademark Office (USPTO) issued a new patent to the Company's Eagle Biologics division. Patent number 9,925,263 will expire in March 2036 and is the fourth patent issued in the Eagle Biologics family of patents.

In March 2018, the FDA approved a second manufacturing site for BENDEKA.

On April 16, 2018, the Company announced the FDA's acceptance of our ANDA filing for vasopressin injection, 1ml. This product is the generic version of Endo International plc's original Vasostrict® formulation, which is indicated to increase blood pressure in adults with vasodilatory shock (e.g., post-cardiotomy or sepsis) who remain hypotensive despite fluids and catecholamines. Vasostrict had approximately \$450 million in brand sales in 2018.

On May 15, 2018, the FDA granted final approval for Eagle's ready-to-dilute bendamustine hydrochloride solution in a 500ml admixture for the treatment of patients with chronic lymphocytic leukemia (CLL) and patients with indolent B-cell non-Hodgkin lymphoma (NHL) that has progressed during or within six months of treatment with rituximab or a rituximab-containing regimen.

On March 24, 2016 the FDA denied the Company's request for seven years of orphan drug exclusivity in the U.S., for BENDEKA. In April 2016, the Company filed a lawsuit against the FDA arguing that BENDEKA is entitled to orphan drug exclusivity as a matter of law (see Note 12. Legal Proceedings). On July 2, 2014, the FDA granted the Company orphan drug designations for BENDEKA for the treatment of CLL and indolent B-cell NHL. The designations were based on a plausible hypothesis that BENDEKA is "clinically superior" to a drug previously approved for the same indications. Generally, an orphan-designated drug is eligible for seven years of marketing exclusivity for the orphan-designated indications upon approval of the drug for those indications. On June 8, 2018, the U.S. District Court for the District of Columbia (the "Court") issued a decision requiring the FDA to grant seven years of orphan drug exclusivity (ODE) in the U.S., for BENDEKA, and on July 8, 2018 the FDA granted such ODE through December 2022. In addition, on July 8, 2018, the FDA submitted a Motion to Alter or Amend the Judgement Pursuant to Rule 59(e), pursuant to which the FDA requested the Court amend its decision to make clear that the decision does not affect any applications referencing TREANDA. The FDA's motion was denied by the Court on August 1, 2018 on the grounds that FDA was seeking an inappropriate advisory opinion. The Company continues to believe that an appropriate application of orphan drug exclusivity would first allow generic TREANDA entrants in December 2022, rather than November 2019, and expects to vigorously pursue the scope of its exclusivity grant.

In June 2018, as part of an ongoing organizational review, the Company began a restructuring initiative to rationalize its product portfolio and focus its physical sites. These measures include the discontinuation of manufacture and distribution of Non-Alcohol Docetaxel Injection and plans to rationalize research and development operations. The Company ceased selling the product by September 30, 2018.

On July 26, 2017, we received a Complete Response Letter from the FDA regarding our 505(b)(2) NDA for Ryanodex for the treatment of exertional heat stroke ("EHS"), in conjunction with external cooling methods. Based on our meeting with the FDA, the Company conducted an additional clinical trial in August 2018 during the Hajj pilgrimage, similar to the study conducted during the Hajj in 2015. On August 30, 2018, we announced the completion of enrollment of our second clinical study to further evaluate the safety and efficacy of Ryanodex. During the 2018 Hajj, overall emergency room visits were dramatically decreased from previous years due to well-implemented crowd management, lower temperatures, lower humidity and other external factors. As a result, the number of EHS patients available for study enrollment was also significantly less than in previous years, and therefore much lower than anticipated. The preliminary assessment of patients enrolled is consistent with the data from the study conducted in 2015, in which patients dosed with RYANODEX plus Standard of Care ("SOC") showed an additive benefit compared to patients receiving SOC only. The Company continues to confer with the U.S. Food and Drug Administration to discuss next steps.

On October 3, 2018, the Company announced that it entered into an agreement with the United States Army Medical Research Institute of Chemical Defense, the nation's leading science and technology laboratory in the area of medical chemical countermeasures research and development, to conduct a study to evaluate the neuroprotective effects of RYANODEX (dantrolene sodium).

On October 30, 2018, we announced that the Company's fulvestrant formulation has not met the primary pharmacokinetic endpoint evaluating the bioequivalence of the Company's formulation compared to Faslodex in its open label, randomized, pharmacokinetic and safety study conducted in 600 healthy female volunteers across multiple U.S. sites.

On October 30, 2018, the Company announced that its Board of Directors has approved a new share repurchase program providing for the repurchase of up to \$150 million of the Company's outstanding common stock, consisting of (i) up to \$50 million in repurchases pursuant to an accelerated share repurchase agreement (the "ASR") with JPMorgan Chase Bank, N.A. ("JPMorgan"), and (ii) up to \$100 million in additional repurchases (collectively, the "2018 Share Repurchase Program"). In connection with its approval of the 2018 Share Repurchase Program, the Board terminated the Company's 2016 Share Repurchase Program and 2017 Share Repurchase Program in October 2018. As of June 30, 2019, the Company has repurchased an aggregate of 2,855,316 shares of common stock for \$168.9 million.

On November 27, 2018, the Company announced positive results of a pre-clinical study conducted to evaluate the effects of Ryanodex in Acute Radiation Syndrome.

On April 15, 2019, we announced an expansion of our BENDEKA License Agreement. Under the terms of the revised agreement, beginning on October 1, 2019, Eagle's royalty payment will increase from 25% to 30% of BENDEKA net U.S. sales, provided that BENDEKA's orphan drug exclusivity has not been rescinded, withdrawn or waived by such date. The royalty rate will increase by one percentage point on each anniversary of October 1, 2019 until it reaches 32%, and it will remain at 32% thereafter. The revised agreement also extends the U.S. BENDEKA royalty term until it is no longer sold in the United States. The previous U.S. royalty term was set to expire in 2025.

On May 7, 2019, the Company announced positive results of its study to evaluate the neuroprotective effects of Ryanodex secondary to nerve agent exposure, conducted with the United States Army Medical Research Institute of Chemical Defense.

## **Financial Operations Overview**

### **Revenue**

Our revenue consists of product sales, royalty revenue and license and other revenue.

*Product Sales.* Through June 30, 2019, we have recognized revenues from product sales of BENDEKA, Argatroban, Ryanodex, and Big Bag. Sales of BENDEKA are sold to our commercial partner Teva. Argatroban is sold directly to our commercial partners Chiesi and Sandoz. Sales to our commercial partners are typically made at little or no profit for resale. Ryanodex and Big Bag have been sold directly to wholesalers, hospitals and surgery centers through a third-party logistics partner.

We typically enter into agreements with group purchasing organizations acting on behalf of their hospital members, in connection with the hospitals' purchases of our direct commercial products. Based on these agreements, most of our hospital customers have contracted prices for products and volume-based rebates on product purchases. These amounts are estimated and recorded at the time of sale. In the case of discounted pricing, we typically pay a chargeback, representing the difference between the price invoiced to the wholesaler and the customer contract price.

*Royalty revenue.* We recognize revenue from royalties based on a percentage of Teva's net sales of BENDEKA and Sandoz's and Chiesi's gross profit of Argatroban, both net of discounts, returns and allowances incurred by our commercial partners. Royalty revenue is recognized as earned in accordance with contract terms when it can be reasonably estimated and collectability is reasonably assured.

*License and other revenue.*

Our revenues may either be in the form of the recognition of deferred revenues upon milestone achievement for which cash has already been received or recognition of revenue upon milestone achievement, the payment for which is reasonably assured to be received in the future.

The primary factors that determine our revenues derived from BENDEKA are:

- the level of orders submitted by our commercial partner, Teva;
- the rate at which Teva can convert the current market to BENDEKA;
- the level of institutional demand for BENDEKA;
- unit sales prices charged by our commercial partner, net of any sales reserves; and
- the level of orders submitted by wholesalers, hospitals and surgery centers.

The primary factors that may determine our revenues derived from Argatroban are:

- the level of orders submitted by our commercial partners, Sandoz and Chiesi;
- the level of institutional demand for Argatroban; and
- unit sales prices charged by our commercial partners, net of any sales reserves.

The primary factors that may determine our revenues derived from Ryanodex, Big Bag and our future products are:

- the effectiveness of our sales force;
- the level of orders submitted by wholesalers, hospitals and surgery centers;
- the level of institutional demand for our products; and

- unit sales prices, net of any sales reserves.

### ***Cost of Revenues***

Cost of revenue consists of the costs associated with producing our products for our commercial partners. In particular, our cost of revenue includes production costs of our products paid to a contract manufacturing organization coupled with shipping and customs charges, cost of royalty and the amortization of intangible assets. Cost of revenue may also include the effects of product recalls, if applicable.

### ***Research and Development***

Costs for research and development are charged to expense as incurred and include: employee-related expenses including salaries, benefits, travel and stock-based compensation expense for research and development personnel, expenses incurred under agreements with contract research organizations, contract manufacturing organizations and service providers that assist in conducting clinical and preclinical studies; costs associated with preclinical activities and development activities, costs associated with regulatory operations; and depreciation expense for assets used in research and development activities.

Costs for certain development activities, such as clinical studies, are recognized based on an evaluation of the progress to completion of specific tasks using data such as patient enrollment, clinical site activations, or information provided to the Company by its vendors on their actual costs incurred. Payments for these activities are based on the terms of the individual arrangements, which may differ from the patterns of costs incurred, and are reflected in the condensed consolidated financial statements as prepaid expenses or accrued expenses as deemed appropriate.

### ***Selling, General and Administrative***

Selling, general and administrative costs consist primarily of salaries, benefits and other related costs, including stock-based compensation for executive, finance, sales and operations personnel. Selling, general and administrative expenses also include facility and related costs, professional fees for legal, consulting, tax and accounting services, insurance, selling, marketing, market research, advisory board and key opinion leaders, depreciation and general corporate expenses.

### ***Income Taxes***

We account for income taxes using the liability method in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”), Topic 740, “Income Taxes” (“ASC 740”). Deferred tax assets and liabilities are determined based on temporary differences between financial reporting and tax bases of assets and liabilities and are measured by applying enacted rates and laws to taxable years in which differences are expected to be recovered or settled. Further, the effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that the rate changes. A valuation allowance is required when it is “more likely than not” that all or a portion of deferred tax assets will not be realized. ASC 740 also prescribes a comprehensive model for how a company should recognize, measure, present and disclose in its financial statements uncertain tax positions that the Company has taken or expects to take on a tax return, including a decision whether to file on a tax return, including a decision whether to file a return in a particular jurisdiction. We recognize any interest and penalties accrued related to unrecognized tax benefits as income tax expense.

## Results of Operations

### Comparison of Three Months Ended June 30, 2019 and 2018

#### Revenues

	Three Months Ended June 30,		
	2019	2018	Increase/(Decrease)
	(in thousands)		
Product sales	\$ 29,437	\$ 23,041	\$ 6,396
Royalty revenue	27,265	36,255	(8,990)
Total revenue	<u>\$ 56,702</u>	<u>\$ 59,296</u>	<u>\$ (2,594)</u>

Product sales increased \$6.4 million in the three months ended June 30, 2019 as compared to the three months ended June 30, 2018 primarily driven by product sales of Big Bag of \$7.3 million and BENDEKA of \$4.9 million. The increased sales were partially offset by a decrease in product sales of Ryanodex of \$4.3 million due to lower volume on a low reorder cycle period and the discontinuation of Non-Alcohol Docetaxel Injection in September 2018.

Royalty revenue decreased \$9.0 million in the three months ended June 30, 2019 as compared to the three months ended June 30, 2018 primarily driven by \$8.2 million decrease in royalties from BENDEKA sales and \$0.8 million decrease in royalties from Argatroban sales by our commercial partners.

#### Cost of Revenue

	Three Months Ended June 30,		
	2019	2018	Increase/(Decrease)
	(in thousands)		
Cost of product sales	\$ 18,175	\$ 14,074	\$ 4,101
Cost of royalty revenue	3,109	4,485	(1,376)
Total cost of revenue	<u>\$ 21,284</u>	<u>\$ 18,559</u>	<u>\$ 2,725</u>

Cost of product sales increased \$4.1 million in the three months ended June 30, 2019 to \$18.2 million as compared to \$14.1 million in the three months ended June 30, 2018, primarily as a result of increased product sales of Big Bag and BENDEKA, partially offset by decreased product sales of Ryanodex and Argatroban and the discontinuation of Non-Alcohol Docetaxel Injection in September 2018.

Cost of royalty revenue decreased \$1.4 million in the three months ended June 30, 2019 to \$3.1 million as compared to \$4.5 million in the three months ended June 30, 2018, primarily as a result of the decrease in royalty revenue for BENDEKA and Argatroban.

#### Research and Development

	Three Months Ended June 30,		
	2019	2018	Decrease
	(in thousands)		
Research and development	\$ 8,957	\$ 15,265	\$ (6,308)

Research and development expenses decreased \$6.3 million in the three months ended June 30, 2019 to \$9.0 million as compared to \$15.3 million in the three months ended June 30, 2018. The decrease primarily resulted from a decrease in project spending for EGL-5385-C-1701 (the Company's fulvestrant formulation) relating to the clinical study which completed randomization of subjects in the first half of 2018. This decrease was partially offset by increased spend related to the Company's vasopressin injection ANDA filing.

## Selling, General and Administrative

	Three Months Ended June 30,		Increase
	2019	2018	
	(in thousands)		
Selling, general and administrative	\$ 17,228	\$ 15,987	\$ 1,241

Selling, general and administrative expenses increased \$1.2 million in the three months ended June 30, 2019 to \$17.2 million as compared to \$16.0 million in the three months ended June 30, 2018. This increase is primarily related to an increase of \$1.2 million in external legal fees related to ongoing litigation matters during the three months ended June 30, 2019.

### Restructuring Charge

We recorded a restructuring charge related to the rationalization of our product portfolio and the reduction of costs associated with our physical sites. This initiative included the discontinuation of manufacture and distribution of Non-Alcohol Docetaxel Injection, which occurred in June 2018, and the reduction of research and development operations. Charges consisted of inventory and related reserves of \$4.0 million and certain asset impairment charges related to property, plant and equipment of \$3.4 million resulting in a total restructuring charge of \$7.4 million for the three months ended June 30, 2018.

### Asset Impairment Charge

During the three months ended June 30, 2018, we implemented a restructuring initiative resulting in the removal of Non-Alcohol Docetaxel Injection from our product portfolio. Sales for the product ceased at the end of third quarter 2018. We determined the carrying amount of the asset to no longer be recoverable, resulting in a pre-tax, non-cash asset impairment charge of \$2.7 million during the three months ended June 30, 2018.

### Change in Fair Value of Contingent Consideration

Contingent consideration, which primarily consists of potential milestone payments and royalty obligations, was recorded in our condensed consolidated balance sheets at its estimated fair value at the acquisition date, in accordance with the acquisition method of accounting. The fair value of the acquisition-related contingent consideration is remeasured each reporting period, with changes in fair value recorded in our condensed consolidated statements of income. The fair value measurement is based on significant inputs not observable in the market and thus represents a Level 3 measurement as defined in fair value measurement accounting.

Contingent consideration gain for \$0.8 million was recorded during the three months ended June 30, 2018. This was primarily driven by adjustments to the fair values of the liabilities associated with Non-Alcohol Docetaxel Injection, which was remeasured as a result of the discontinuation of the product.

### Other Income (Expense)

	Three Months Ended June 30,		Decrease / Increase
	2019	2018	
	(in thousands)		
Interest income	\$ 637	\$ 1	\$ 636
Interest expense	(665)	(701)	36
Total other expense, net	\$ (28)	\$ (700)	\$ 672

Interest income increased \$636 thousand in the three months ended June 30, 2019 primarily due to the Company investing additional cash in a money market fund throughout the three months ended June 30, 2019 as compared to the three months ended June 30, 2018.

Interest expense decreased in the three months ended June 30, 2019 as compared to the three months ended June 30, 2018 primarily due to lower total long-term debt outstanding due to recurring principal payments required by the Amended Credit Agreement.

## Income Tax Provision

	Three Months Ended June 30,	
	2019	2018
	(in thousands)	
(Provision) benefit for income taxes	\$ (2,480)	\$ 3,176
Effective tax rate	27%	614%

The provision for income taxes was based on the applicable federal and state tax rates for those periods. The effective tax rate for the three months ended June 30, 2019 reflects the impact of certain non-deductible executive compensation partially offset by credits for research and development activity. The effective tax rate for the three months ended June 30, 2018 reflects tax benefits related to stock option exercises in the period as well as credits for research and development activity partially offset by the impact of certain non-deductible executive compensation.

## Comparison of Six Months Ended June 30, 2019 and 2018

### Revenues

	Six Months Ended June 30,		
	2019	2018	Increase/(Decrease)
	(in thousands)		
Product sales	\$ 43,909	\$ 33,879	\$ 10,030
Royalty revenue	53,578	72,043	(18,465)
License and other revenue	9,000	—	9,000
Total revenue	\$ 106,487	\$ 105,922	\$ 565

Product sales increased \$10.0 million in the six months ended June 30, 2019 as compared to the six months ended June 30, 2018 primarily driven by product sales of Big Bag of \$10.5 million and BENDEKA of \$6.5 million. The increased sales were partially offset by decreases in product sales of Ryanodex of \$4.7 million due to lower volume on a low reorder cycle period and the discontinuation of Non-Alcohol Docetaxel Injection in September 2018.

Royalty revenue decreased \$18.5 million in the six months ended June 30, 2019 as compared to the six months ended June 30, 2018 as a result of lower royalties on Teva's sales of BENDEKA of \$16.1 million and lower royalties on sales of Argatroban of \$2.4 million.

License and other revenue in the six months ended June 30, 2019 represents an upfront cash payment of \$9.0 million upon execution of an amendment to the BENDEKA License Agreement to terminate Teva's obligation to pay future milestones and royalties on BENDEKA sales outside of the U.S.

### Cost of Revenue

	Six Months Ended June 30,		
	2019	2018	Increase/(Decrease)
	(in thousands)		
Cost of product sales	\$ 27,729	\$ 21,298	\$ 6,431
Cost of royalty revenue	6,655	9,070	(2,415)
Total cost of revenue	\$ 34,384	\$ 30,368	\$ 4,016

Cost of product sales increased \$6.4 million in the six months ended June 30, 2019 to \$27.7 million as compared to \$21.3 million in the six months ended June 30, 2018, primarily as a result of increased product sales of Big Bag and BENDEKA, partially offset by decreased product sales of Argatroban and the discontinuation of Non-Alcohol Docetaxel Injection in September 2018.

Cost of royalty revenue decreased \$2.4 million in the six months ended June 30, 2019 to \$6.7 million as compared to \$9.1 million in the six months ended June 30, 2018, primarily as a result of the decrease in royalty revenue for BENDEKA and Argatroban.

### Research and Development

	Six Months Ended June 30,		
	2019	2018	Decrease
	(in thousands)		
Research and development	\$ 15,332	\$ 32,585	\$ (17,253)

Research and development expenses decreased \$17.3 million in the six months ended June 30, 2019 to \$15.3 million as compared to \$32.6 million in the six months ended June 30, 2018. The decrease primarily resulted from a decrease in project spending for EGL-5385-C-1701 (the Company's fulvestrant formulation) relating to the clinical study which completed randomization of 600 subjects in the first half of 2018. This decrease was partially offset by increased spend related to the Company's vasopressin injection ANDA filing.

### Selling, General and Administrative

	Six Months Ended June 30,		
	2019	2018	Increase
	(in thousands)		
Selling, general and administrative	\$ 35,369	\$ 31,153	\$ 4,216

Selling, general and administrative expenses increased \$4.2 million in the six months ended June 30, 2019 to \$35.4 million as compared to \$31.2 million in the six months ended June 30, 2018. This increase is primarily related to an increase of \$3.3 million in external legal fees related to ongoing litigation matters and sales and marketing spend as we incurred additional sales force costs for \$0.8 million during the six months ended June 30, 2019.

### Restructuring Charge

We recorded a restructuring charge related to the rationalization of our product portfolio and reduction of costs associated with our physical sites. This initiative included the discontinuation of manufacture and distribution of Non-Alcohol Docetaxel Injection, which occurred in June 2018, and rationalization of research and development operations. Charges consisted of inventory and related reserves of \$4.0 million and certain asset impairment charges related to property, plant and equipment of \$3.4 million resulting in a total restructuring charge of \$7.4 million for the six months ended June 30, 2018.

### Asset Impairment Charge

On June 30, 2018, we implemented a restructuring initiative resulting in the removal of Non-Alcohol Docetaxel Injection from our product portfolio. Sales for the product ceased at the end of third quarter 2018. We determined the carrying amount of the asset to no longer be recoverable, resulting in a pre-tax, non-cash asset impairment charge of \$2.7 million during the six months ended June 30, 2018.

### Change in Fair Value of Contingent Consideration

Contingent consideration, which primarily consists of potential milestone payments and royalty obligations, is recorded in our condensed consolidated balance sheets at its estimated fair value at the acquisition date, in accordance with the acquisition method of accounting. The fair value of the acquisition-related contingent consideration is remeasured each reporting period, with changes in fair value recorded in our condensed consolidated statements of income. The fair value measurement is based on significant inputs not observable in the market and thus represents a Level 3 measurement as defined in fair value measurement accounting.

Contingent consideration gain for \$0.8 million was recorded during the six months ended June 30, 2018. This was primarily driven by adjustments to the fair values of the liabilities associated with Non-Alcohol Docetaxel Injection, which was remeasured as a result of the discontinuation of the product and partially offset by accretion for the time value of money.

## Other Income (Expense)

	Six Months Ended June 30,		Decrease / Increase
	2019	2018	
	(in thousands)		
Interest income	\$ 1,131	\$ 27	\$ 1,104
Interest expense	(1,351)	(1,376)	25
Total other expense, net	\$ (220)	\$ (1,349)	\$ 1,129

Interest income increased \$1.1 million in the six months ended June 30, 2019 primarily due to the Company's short term investing initiatives with cash on hand throughout the six months ended June 30, 2019 as compared to the six months ended June 30, 2018.

Interest expense decreased in the six months ended June 30, 2019 as compared to the six months ended June 30, 2018 primarily due to lower total long-term debt outstanding due to recurring principal payments required by the Amended Credit Agreement.

## Income Tax Provision

	Six Months Ended June 30,	
	2019	2018
	(in thousands)	
(Provision) benefit for income taxes	\$ (5,484)	\$ 4,137
Effective tax rate	26%	(364)%

The provision for income taxes was based on the applicable federal and state tax rates for those periods. The effective tax rate for the six months ended June 30, 2019 reflects the impact of certain non-deductible executive compensation partially offset by credits for research and development activity. The effective tax rate for the six months ended June 30, 2018 reflects tax benefits related to stock option exercises in the period as well as credits for research and development activity partially offset by the impact of certain non-deductible executive compensation.

## Liquidity and Capital Resources

Our primary uses of cash are to fund working capital requirements, product development costs and operating expenses. Cash and cash equivalents were \$108.1 million and \$100.2 million as of June 30, 2019 and June 30, 2018, respectively.

For the six months ended June 30, 2019, we realized net income of \$15.7 million. As of June 30, 2019, our working capital surplus was \$133.9 million. For the six months ended June 30, 2018, we realized net income of \$5.3 million.

We believe that future cash flows from operations will be sufficient to fund our currently anticipated working capital requirements.

We expect to use future loans, if any, under the Amended Credit Facility, for general corporate purposes and any strategic acquisitions.

### Operating Activities:

Net cash provided by operating activities for the six months ended June 30, 2019 was \$48.6 million. Net income for the period was \$15.7 million enhanced by the net of non-cash adjustments of approximately \$13.5 million from deferred income taxes, depreciation, amortization of intangible assets, stock-based compensation expense, and amortization of debt issuance costs. Net changes in working capital increased cash from operating activities by approximately \$19.4 million, due to changes in working capital accounts. The total amount of accounts receivable at June 30, 2019 was approximately \$60.3 million, which included approximately \$31.8 million related to product sales and \$28.5 million related to royalty revenue. Receivables from our product sales have payment terms ranging from 30 to 75 days with select extended terms to wholesalers on initial purchases of product launch quantities. Our receivables from royalty revenue are due 45-days from the end of the quarter.

### Investing Activities:

In the six months ended June 30, 2019, we invested \$0.3 million in purchases of property and equipment.

### Financing Activities:

Net cash used in financing activities for the six months ended June 30, 2019 was \$18.9 million, primarily resulting from principal payments for debt required by the Amended Credit Agreement of \$3.8 million and payments related to the repurchases of our common stock of \$15 million.

### Contractual Obligations

Our future material contractual obligations include the following (in thousands):

Obligations	Total	2019	2020	2021	2022	2023	2024	Beyond
Operating leases (1)	\$ 3,088	\$ 573	\$ 864	\$ 583	\$ 583	\$ 485	\$ —	\$ —
Credit facility	41,250	2,500	38,750	—	—	—	—	—
Purchase obligations (2)	29,362	29,362	—	—	—	—	—	—
Total obligations	\$ 73,700	\$ 32,435	\$ 39,614	\$ 583	\$ 583	\$ 485	\$ —	\$ —

(1) We lease our corporate office location. This lease will expire in June 2020. The Company also leases its lab space under a lease agreement that expires on October 31, 2023. Rental expense was \$573 and \$288, for the six months ended June 30, 2019 and 2018, respectively.

(2) As of June 30, 2019, the Company has purchase obligations in the amount of \$29,362 which represents the contractual commitments under contract manufacturing and supply agreements with suppliers. The obligation under the supply agreement is primarily for finished product, inventory, and research and development.

### Recent Accounting Pronouncements

#### Recent Accounting Pronouncements - Not Yet Adopted

In January 2017, the FASB issued guidance to simplify the measurement of goodwill. The guidance eliminates Step 2 from the goodwill impairment test. Instead, under the amendments in this guidance, an entity should perform its annual or interim goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, an entity should consider income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss. The guidance also eliminates the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. The guidance is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years, and early adoption is permitted for interim or annual goodwill impairment tests performed for testing dates after January 1, 2017. The guidance must be adopted on a prospective basis. We do not expect this guidance to have an impact on our condensed consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-13, Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirement for Fair Value Measurement (“ASU 2018-13”) which amends the disclosure requirements for fair value measurements. The amendments in ASU 2018-13 are effective for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company is currently evaluating the potential impact that the adoption of ASU 2018-13 may have on the Company's financial position and results of operations.

#### Recently Adopted Accounting Pronouncements

The Company adopted FASB ASU No. 2016-02, “Leases (Topic 842)” (ASU 2016-02) as of January 1, 2019 to increase transparency and comparability among organizations, which included recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. Lessees are required to recognize a lease liability, which represents the

discounted obligation to make future minimum lease payments, and a corresponding right-of-use asset on the balance sheet for most leases. The Company adopted ASU 2016-02 using the modified retrospective approach and did not recognize a cumulative-effect adjustment to the opening balance of Retained earnings. The Company elected a number of optional practical expedients permitted under the transition guidance within the new standard, which among other things, allowed us to carry forward the historical lease classification and that permits lease agreements that are twelve months or less to be excluded from the balance sheet. The primary impact upon adoption was the recognition, on a discounted basis, of the Company's minimum commitments under noncancelable operating leases as right of use assets and obligations on the condensed consolidated balance sheets, in an amount near \$3 million as of the adoption date. The Company may enter into future long-term lease agreements or exercise renewal options contained in existing lease agreements that could have a material impact on the right of use assets and obligations reflected on the condensed consolidated balance sheets.

#### **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements that have, or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, revenue or expenses, results of operations, liquidity, capital expenditures or capital resources.

#### **Impact of Inflation**

While it is difficult to accurately measure the impact of inflation due to the imprecise nature of the estimates required, we believe the effects of inflation, if any, on our results of operations and financial condition have been immaterial.

#### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

During the six months ended June 30, 2019, there were no material changes to our market risk disclosures as set forth in Part II, Item 7A "Quantitative and Qualitative Disclosures About Market Risk" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, filed with the SEC on February 28, 2019.

#### **Item 4. Controls and Procedures**

##### **Evaluation of Disclosure Controls and Procedures**

We maintain "disclosure controls and procedures," as such term is defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that are designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognized that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Additionally, in designing disclosure controls and procedures, our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. The design of any disclosure controls and procedures also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

Based on their evaluation at June 30, 2019, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective.

##### **Changes in Internal Control over Financial Reporting**

No change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) occurred during the three months ended June 30, 2019 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## PART II-OTHER INFORMATION

### Item 1. Legal Proceedings

The disclosures under Note 12. Legal Proceedings in the Condensed Consolidated Financial Statements included in Part I, Item 1 of this report are incorporated into this Part II, Item 1 by reference.

### Item 1A. Risk Factors

You should carefully consider the factors discussed in Part I, Item 1A. “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2018, which could materially affect our business, financial condition, cash flows or future results. There have been no material changes in our risk factors included in our Annual Report on Form 10-K for the year ended December 31, 2018. The risks described in our Annual Report on Form 10-K for the year ended December 31, 2018 are not the only risks facing our company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or future results.

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

#### Issuer Purchases of Equity Securities

The following table provides information about purchases of our equity securities during the three months ended June 30, 2019:

Period	Total Number of Shares Purchased (1)(2)(3)	Average Price Paid per Share	Total Number of Shares Purchased as Part Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Programs
(dollars in thousands)				
April 1, 2019 to April 30, 2019	—	N/A	—	100,000
May 1, 2019 to May 31, 2019	265,058	\$ 56.59	265,058	85,000
June 1, 2019 to June 30, 2019	—	N/A	—	85,000
<b>Total</b>	<u>265,058</u>		<u>265,058</u>	

(1) All shares repurchased by the Company in this table were repurchased pursuant to the 2018 Share Repurchase Program described in our 2018 Annual Report on Form 10-K.

(2) On October 30, 2018, the Company announced a repurchase program approved by the Board pursuant to which the Company may repurchase of up to \$150 million of the its outstanding common stock, consisting of (i) up to \$50 million in repurchases pursuant to an accelerated share repurchase agreement (the “ASR”), with JPMorgan Chase Bank, N.A. (“JPMorgan”), and (ii) up to \$100 million in additional repurchases (collectively, the “2018 Share Repurchase Program”). Under the 2018 Share Repurchase Program, the Company is authorized to repurchase shares through open market purchases, privately-negotiated transactions, accelerated share repurchases or otherwise in accordance with applicable federal securities laws, including through Rule 10b5-1 trading plans and under Rule 10b-18 of the Exchange Act. Under the 2018 Share Repurchase Program, the additional repurchases have no time limit and may be suspended or discontinued completely at any time. The specific timing and amount of repurchases will vary based on available capital resources and other financial and operational performance, market conditions, securities law limitations, and other factors. The repurchases will be made using the Company’s cash resources.

(3) In connection with the 2018 Share Repurchase Program, during the period from October 30, 2018 through December 6, 2018, the Company completed the ASR with JPMorgan repurchasing an aggregate 1,000,134 shares of the Company’s common stock for \$50 million.

### Item 3. Defaults Upon Senior Securities

Not applicable.

**Item 4. Mine Safety Disclosures**

Not applicable.

**Item 5. Other Information**

Not applicable.

**Item 6. Exhibits**

The exhibits listed below are filed or furnished (as applicable) as part of, or incorporated by reference into, this Quarterly Report on Form 10-Q.

## EXHIBIT INDEX

Exhibit Number	Description of Exhibit
31.1	(1) <a href="#"><u>Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>
31.2	(1) <a href="#"><u>Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u></a>
32.1	(1) <a href="#"><u>Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
101.INS	The instance document does not appear in the interactive data file because its XBRL tags are embedded within the inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104.0	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101).

(1) Filed herewith.

## 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 thereunto duly authorized

EAGLE PHARMACEUTICALS, INC.

DATED: August 8, 2019

By: /s/ Scott Tarriff  
Scott Tarriff  
Chief Executive Officer and Director  
(Principal Executive Officer)

DATED: August 8, 2019

By: /s/ Pete A. Meyers  
Pete A. Meyers  
Chief Financial Officer  
(Principal Accounting and Financial Officer)

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER**

I, Scott Tarriff, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Eagle Pharmaceuticals, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2019

/s/ Scott Tarriff

Scott Tarriff  
Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER**

I, Pete A. Meyers, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Eagle Pharmaceuticals, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2019

/s/ Pete A. Meyers

Pete A. Meyers  
Chief Financial Officer  
(Principal Accounting and Financial Officer)

**Certification Pursuant to  
18 U.S.C. Section 1350,  
As Adopted Pursuant to  
Section 906 of the Sarbanes-Oxley Act of 2002**

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), **Scott Tarriff**, Chief Executive Officer of Eagle Pharmaceuticals, Inc. (the "Company"), and **Pete A. Meyers**, Chief Financial Officer of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company's Quarterly Report on Form 10-Q for the period ended June 30, 2019, (the "Quarterly Report"), to which this Certification is attached as Exhibit 32.1, fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act, and
2. The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

**In Witness Whereof**, the undersigned have set their hands hereto as of the 8<sup>th</sup> day of August 2019.

By: /s/ Scott Tarriff  
Scott Tarriff  
Chief Executive Officer  
(Principal Executive Officer)

By: /s/ Pete A. Meyers  
Pete A. Meyers  
Chief Financial Officer  
(Principal Financial and Accounting Officer)

This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Eagle Pharmaceuticals, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-Q), irrespective of any general incorporation language contained in such filing.