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, 2022

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	**2834**	**20-8179278**
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification 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)

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	The Nasdaq Stock Market LLC

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	Accelerated filer	Non-accelerated filer	Smaller reporting company
☐	☒	☐	☐

Emerging growth company ☐

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. ☐

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

The number of shares outstanding of the registrant's common stock as of August 2, 2022: 13,284,559 shares.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q, or this Quarterly Report, contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. All statements other than statements of historical fact contained in this Quarterly Report are forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as "may," "could," "will," "would," "should," "expect," "plan," "anticipate," "believe," "estimate," "intend," "predict," "seek," "contemplate," "project," "continue," "potential," "ongoing," " "prospects," "outlook," "goal," or the negative of these terms or other comparable terminology, although not all forward-looking statements contain these identifying words. These forward-looking statements include, but are not limited to, statements about:

- statements related to our expectations with respect to the potential benefits to us from our acquisition of Acacia Pharma Group plc and our investment in Enalare Therapeutics Inc;
- the potential benefits and commercial potential of our approved products, including rapidly infused bendamustine RTD, or Bendeka, Ryanodex® (dantrolene sodium), or Ryanodex, bendamustine ready-to-dilute, or RTD, 500ml solution, or Belrapzo, BARHEMSYS® and BYFAVO® TREAKISYM®, a lyophilized powder formulation of bendamustine hydrochloride, PEMFEXY™, and vasopressin, for approved indications and any expanded uses;
- statements related to our expectations with respect to our investment in Enalare Therapeutics, Inc., or Enalare, including with respect to the anticipated financial impact on us of the agreement with Enalare, potential benefits to us, the achievement of related milestones and timing thereof, our potential further investment in Enalare pursuant to the terms of the agreement, the commercial potential of Enalare's product candidates and Enalare's development program, including with respect to current and future clinical trials and timing thereof;
- the commercial potential of additional indications for our products;
- sales of our products in various markets worldwide, pricing for our products, level of insurance coverage and reimbursement for our products, timing regarding development and regulatory approvals for our products or for additional indications or in additional territories;
- future expansion of our commercial organization and transition to third-parties in certain jurisdictions to perform sales, marketing and distribution functions;
- the number and timing of potential product launches, development initiatives or new indications for the Company's product candidates, and the commercial potential of additional indications for our products;
- the initiation, timing, design, progress and results of our preclinical studies and clinical trials, and our research and development programs;
- our ability to obtain and maintain regulatory approval of our products and product candidates, and any related restrictions, limitations, and/or warnings in the label of an approved product;
- our plans to research, develop and commercialize our products and product candidates and our ability to successfully commercialize our products and product candidates;
- our ability to attract collaborators with development, regulatory and commercialization expertise;
- the size and growth potential of the markets for our products and product candidates, and our ability to serve those markets;
- the impact of the ongoing coronavirus 2019, or COVID-19, pandemic on our business and operations, results of operations and financial performance including: disruption in the sales of our marketed products; delays, interruptions or other adverse effects to clinical trials and patient enrollment; delays in regulatory review; manufacturing and supply chain interruptions; and the adverse effects on healthcare systems, volatility of the financial and credit markets and disruption of the global economy overall;
- the impact of geopolitical events, such as the ongoing conflict between Russia and Ukraine and related sanctions, and macroeconomic conditions, such as rising inflation and uncertainty in credit and financial markets, on our business and operations, results operations and financial performance;
- the diversion of healthcare resources away from the conduct of clinical trials as a result of the ongoing COVID-19 pandemic, including the diversion of hospitals and doctor offices serving as locations for administration of our products, including Bendeka and hospital staff supporting the conduct of such administration;
- the rate and degree of market acceptance of our products;
- our ability to significantly grow our commercial sales and marketing organization, whether alone or with potential future collaborators;
- the performance of our strategic collaborators and success of our current strategic collaborators;
- regulatory developments in the United States and foreign countries;
- the performance of our third-party suppliers and manufacturers;
- the success of competing drugs that are or become available;
- the retention of key scientific or management personnel;
- our ability to obtain additional funding for our operations;
- our ability to obtain, maintain, protect and enhance intellectual property rights and proprietary technologies and operate our business without infringing the intellectual property rights and proprietary technology of third parties;

- our ability to prevent or minimize the effects of litigation; and
- our expectations regarding anticipated future costs, operating expenses and capital requirements;

Any forward-looking statements in this Quarterly Report reflect our current views with respect to future events or to our future financial performance and involve known and unknown risks, uncertainties, assumptions and other factors described under the "Risk Factors" section and elsewhere in this Quarterly Report, that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by these forward-looking statements. Given these uncertainties, you should not place undue reliance on these forward-looking statements.

In addition, statements such as "we believe" and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this report, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements as predictions of future events. Except as required by law, we assume no obligation to update or revise these forward-looking statements for any reason, even if new information becomes available in the future.

This Quarterly Report also contains estimates, projections and other information concerning our industry, our business, and the markets for certain diseases, including data regarding the estimated size of those markets, and the incidence and prevalence of certain medical conditions. Information that is based on estimates, forecasts, projections, market research or similar methodologies is inherently subject to uncertainties and actual events or circumstances may differ materially from events and circumstances reflected in this information. Unless otherwise expressly stated, we obtained this industry, business, market and other data from reports, research surveys, studies and similar data prepared by market research firms and other third parties, industry, medical and general publications, government data and similar sources.

NOTE REGARDING COMPANY REFERENCES

References to the "Company," "Eagle Pharmaceuticals," "Eagle," "we," "us" or "our" mean Eagle Pharmaceuticals, Inc., a Delaware corporation, together with its subsidiaries, references to "Eagle Biologics" mean Eagle Biologics, Inc., "Eagle Research Lab" means Eagle Research Lab Limited, and "Acacia Pharma" means Acacia Pharma Group plc.

NOTE REGARDING TRADEMARKS

All trademarks, trade names and service marks appearing in this Quarterly Report are the property of their respective owners. Solely for convenience, trademarks and trade names referred to in this Quarterly Report may appear without the ® or TM symbols, but such references are not intended to indicate in any way that the Company will not assert, to the fullest extent under applicable law, its rights or the rights of the applicable licensor to these trademarks and trade names. The Company does not intend its use or display of other entities' trade names, trademarks or service marks to imply a relationship with, or endorsement or sponsorship of the Company by, any other entity.

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PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

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

	June 30, 2022	December 31, 2021
ASSETS		
Current assets:		
Cash and cash equivalents	$ 36,562	$ 97,659
Accounts receivable, net	85,920	41,149
Inventories	57,712	21,908
Prepaid expenses and other current assets	14,262	11,890
Total current assets	194,456	172,606
Property and equipment, net	1,459	1,636
Intangible assets, net	112,474	10,671
Goodwill	43,057	39,743
Deferred tax asset, net	23,244	18,798
Other assets	7,066	10,278
Total assets	$ 381,756	$ 253,732
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 19,971	$ 16,431
Accrued expenses and other liabilities	67,150	32,338
Current debt	21,843	25,607
Total current liabilities	108,964	74,376
Long-term debt	28,018	—
Deferred tax liability	4,536	—
Other long-term liabilities	2,256	2,903
Total liabilities	143,774	77,279
Commitments and Contingencies		
Stockholders' equity:		
Preferred stock, 1,500,000 shares authorized and no shares issued or outstanding as of June 30, 2022 and December 31, 2021	—	—
Common stock, $0.001 par value; 50,000,000 shares authorized; 17,549,023 and 16,903,034 shares issued as of June 30, 2022 and December 31, 2021, respectively	18	17
Additional paid in capital	358,377	325,779
Accumulated other comprehensive income (loss)	2,281	(94)
Retained earnings	110,470	75,862
Treasury stock, at cost, 4,278,831 and 4,111,622 shares as of June 30, 2022 and December 31, 2021, respectively	(233,164)	(225,111)
Total stockholders' equity	237,982	176,453
Total liabilities and stockholders' equity	$ 381,756	$ 253,732

See accompanying notes to condensed consolidated financial statements (unaudited).

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	**2021**	**2022**	**2021**
Revenue:				
Product sales, net	$ 49,201	$ 19,621	$ 139,289	$ 36,741
Royalty revenue	24,935	28,503	50,721	52,632
Total revenue	74,136	48,124	190,010	89,373
Operating expenses:				
Cost of product sales	21,171	7,907	46,347	16,349
Cost of royalty revenue	2,493	2,850	5,072	5,263
Research and development	11,437	9,911	17,545	24,199
Selling, general and administrative	36,832	16,636	59,014	36,515
Total operating expenses	71,933	37,304	127,978	82,326
Income from operations	2,203	10,820	62,032	7,047
Interest income	244	163	398	198
Interest expense	(552)	(422)	(918)	(844)
Other (expense) income	(7,763)	(5,013)	(9,720)	487
Total other (expense) income, net	(8,071)	(5,272)	(10,240)	(159)
(Loss) income before income tax provision	(5,868)	5,548	51,792	6,888
Income tax provision	(3,582)	(1,936)	(17,184)	(3,697)
Net (loss) income	$ (9,450)	$ 3,612	$ 34,608	$ 3,191
(Loss) earnings per share attributable to common stockholders:				
Basic	$ (0.74)	$ 0.28	$ 2.71	$ 0.24
Diluted	$ (0.74)	$ 0.27	$ 2.67	$ 0.24
Weighted average number of common shares outstanding:				
Basic	12,836,116	13,108,998	12,773,727	13,116,370
Diluted	12,836,116	13,262,164	12,951,788	13,293,920

See accompanying notes to condensed consolidated financial statements (unaudited).

EAGLE PHARMACEUTICALS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS) (UNAUDITED)
(In thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Net (loss) income	$ (9,450)	$ 3,612	$ 34,608	$ 3,191
Other comprehensive (loss) income, net of tax:				
Unrealized gain (loss) for convertible promissory note	92	(904)	604	(904)
Foreign currency translation	1,771	—	1,771	—
Total other comprehensive income (loss)	1,863	(904)	2,375	(904)
Comprehensive (loss) income	$ (7,587)	$ 2,708	$ 36,983	$ 2,287

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

	Common Stock		Additional Paid-In Capital	Treasury Stock	Accumulated Other Comprehensive Income	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount					
Balance as of March 31, 2022	16,976	$ 17	$ 328,769	$ (233,164)	$ 418	$ 119,920	$ 215,960
Stock-based compensation expense	—	—	4,500	—	—	—	4,500
Issuance of common stock upon exercise of stock option grants	56	—	1,500	—	—	—	1,500
Issuance of common stock related to business acquisition	516	1	23,644	—	—	—	23,645
Issuance of common stock related to vesting of restricted stock units	1	—	(36)	—	—	—	(36)
Other comprehensive income	—	—	—	—	1,863	—	1,863
Net loss	—	—	—	—	—	(9,450)	(9,450)
Balance as of June 30, 2022	17,549	$ 18	$ 358,377	$ (233,164)	$ 2,281	$ 110,470	$ 237,982

	Common Stock		Additional Paid-In Capital	Treasury Stock	Accumulated Other Comprehensive (Loss)	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount					
Balance as of March 31, 2021	16,858	$ 17	$ 312,323	$ (205,330)	$ —	$ 84,068	$ 191,078
Stock-based compensation expense	—	—	4,281	—	—	—	4,281
Issuance of common stock upon exercise of stock option grants	22	—	(355)	—	—	—	(355)
Common stock repurchases	—	—	—	(2,865)	—	—	(2,865)
Other comprehensive (loss)	—	—	—	—	(904)	—	(904)
Net income	—	—	—	—	—	3,612	3,612
Balance as of June 30, 2021	16,880	$ 17	$ 316,249	$ (208,195)	$ (904)	$ 87,680	$ 194,847

See accompanying notes to unaudited 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	Accumulated Other Comprehensive Income	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount					
Balance as of December 31, 2021	16,903	$ 17	$ 325,779	$ (225,111)	$ (94)	$ 75,862	$ 176,453
Stock-based compensation expense	—	—	8,795	—	—	—	8,795
Issuance of common stock upon exercise of stock option grants	56	—	1,500	—	—	—	1,500
Issuance of common stock related to business acquisition	516	1	23,644	—	—	—	23,645
Issuance of common stock related to vesting of restricted stock units	74	—	(1,341)	—	—	—	(1,341)
Common stock repurchases	—	—	—	(8,053)	—	—	(8,053)
Other comprehensive income	—	—	—	—	2,375	—	2,375
Net income	—	—	—	—	—	34,608	34,608
Balance as of June 30, 2022	17,549	$ 18	$ 358,377	$ (233,164)	$ 2,281	$ 110,470	$ 237,982

	Common Stock		Additional Paid-In Capital	Treasury Stock	Accumulated Other Comprehensive (Loss)	Retained Earnings	Total Stockholders' Equity
	Number of Shares	Amount					
Balance as of December 31, 2020	16,739	$ 17	$ 305,403	$ (203,898)	$ —	$ 84,489	$ 186,011
Stock-based compensation expense	—	—	10,789	—	—	—	10,789
Issuance of common stock upon exercise of stock option grants	78	—	1,608	—	—	—	1,608
Issuance of common stock related to vesting of restricted stock units	63	—	(1,551)	—	—	—	(1,551)
Common stock repurchases	—	—	—	(4,297)	—	—	(4,297)
Other comprehensive (loss)	—	—	—	—	(904)	—	(904)
Net income	—	—	—	—	—	3,191	3,191
Balance as of June 30, 2021	16,880	$ 17	$ 316,249	$ (208,195)	$ (904)	$ 87,680	$ 194,847

See accompanying notes to unaudited condensed consolidated financial statements.

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

	Six Months Ended June 30,	
	2022	**2021**
Cash flows from operating activities:		
Net income	$ 34,608	$ 3,191
Adjustments to reconcile net income to net cash provided by operating activities:		
Deferred income taxes	(4,445)	1,119
Depreciation expense	345	378
Noncash operating lease expense related to right-of-use assets	593	508
Amortization expense of intangible assets	2,197	1,412
Fair value adjustments on equity investment	3,230	(400)
Stock-based compensation expense	8,795	10,789
Convertible promissory note related credit losses	62	100
Amortization of debt issuance costs	236	236
Fair value adjustments related to derivative instruments	620	(188)
Accretion of discount on convertible promissory note	(91)	(56)
Loss on foreign currency exchange rates	1,281	—
Changes in operating assets and liabilities which provided (used) cash:		
Accounts receivable	(44,312)	(1,981)
Inventories	(8,862)	(219)
Prepaid expenses and other current assets	(6)	(1,802)
Accounts payable	2,931	4,868
Accrued expenses and other liabilities	29,006	1,710
Other assets and other long-term liabilities, net	193	(594)
Net cash provided by operating activities	26,381	19,071
Cash flows from investing activities:		
Purchase of Acacia, net of cash acquired	(75,416)	—
Purchase of property and equipment	(168)	(269)
Purchase of convertible promissory note	—	(5,000)
Net cash used in investing activities	(75,584)	(5,269)
Cash flows from financing activities:		
Proceeds from common stock option exercises	1,500	1,608
Employee withholding taxes related to stock-based awards	(1,341)	(1,551)
Payment of debt	(4,000)	(4,000)
Repurchases of common stock	(8,053)	(4,297)
Net cash used in financing activities	(11,894)	(8,240)
Net (decrease) increase in cash and cash equivalents	(61,097)	5,562
Cash and cash equivalents at beginning of period	97,659	103,155
Cash and cash equivalents at end of period	$ 36,562	$ 108,717
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Income taxes	$ 10,570	$ 4,300
Interest	525	625

See accompanying notes to condensed consolidated financial statements (unaudited).

1. Basis of Presentation and Other Company Information

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 ("SEC") for reporting quarterly information. Accordingly, certain information and footnote disclosures required for complete financial statements are not included herein. The condensed consolidated balance sheet at December 31, 2021 was derived from audited financial statements, but certain information and footnote disclosures normally included in our 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, 2022 are not necessarily indicative of the results for the year ending December 31, 2022 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 our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the SEC on March 8, 2022.

We are an integrated pharmaceutical company focused on finding ways to help medicines do more for patients. We and our collaborators have the capabilities to take a molecule from preclinical research through regulatory approval and into the marketplace, including development, manufacturing and commercialization. Our business model applies our scientific expertise, proprietary research-based insights and marketplace proficiency to identify challenging-to-treat diseases of the central nervous system or metabolic critical care therapeutic areas as well as in oncology. By focusing on patients' unmet needs, we strive to provide healthcare professionals with urgently needed treatment solutions that are designed to improve patient care and outcomes and create near- and long-term value for our stakeholders, including patients and healthcare providers and our employees, marketing partners, collaborators and investors. Our science-based business model has a proven track record with the U.S. Food and Drug Administration ("FDA") approval and commercial launches of six products: PEMFEXY® (pemetrexed for injection), vasopressin, an A-rated generic alternative to Vasostrict®, Ryanodex® (dantrolene sodium) ("Ryanodex"), bendamustine ready-to-dilute ("RTD") 500ml solution ("Belrapzo"), and rapidly infused bendamustine RTD ("Bendeka") and RTD ("Treakisym"). We market our products through marketing partners and/or our internal direct sales force. We market PEMFEXY, vasopressin, Ryanodex and Belrapzo, and Teva Pharmaceutical Industries Ltd. ("Teva") markets Bendeka through its subsidiary Cephalon, Inc. SymBio Pharmaceuticals Limited ("SymBio"), markets Treakisym, a RTD product, in Japan.

On June 9, 2022, we acquired all of the outstanding share capital of Acacia Pharma Group plc ("Acacia"), which added two FDA approved new chemical entities with patent protection, BARHEMSYS® (amisulpride for injection) and BYFAVO® (remimazolam for injection). Refer to Note 14 for further details.

2. Summary of Significant Accounting Policies

Significant Accounting Policies

Our significant accounting policies are described in the audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2021 and the notes thereto filed with the SEC on March 8, 2022. Since the date of those consolidated financial statements, there have been no material changes to our significant accounting policies other than as listed below.

Business combinations and asset acquisitions - The Company evaluates acquisitions of assets and other similar transactions to assess whether or not the transaction should be accounted for as a business combination or asset acquisition by first applying a screen to determine if substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets. If the screen is met, the transaction is accounted for as an asset acquisition. If the screen is not met, further determination is required as to whether or not the Company has acquired inputs, process, and output, which would meet the requirements of a business. If determined to be a business combination, the Company accounts for the transaction under the acquisition method of accounting as indicated in Financial Accounting Standards Board ("FASB")

Accounting Standards Update ("ASU") 2017-01, “Business Combinations”, which requires the acquiring entity in a business combination to recognize the fair value of all assets acquired, liabilities assumed, and any non-controlling interest in the acquiree and establishes the acquisition date as the fair value measurement point. Accordingly, the Company recognizes assets acquired and liabilities assumed in business combinations, including any contingent assets and liabilities, and any non-controlling interest in the acquiree based on the fair value estimates as of the date of acquisition. In accordance with Accounting Standards Codification (“ASC”) 805 - Business Combinations, the Company recognizes and measures goodwill as of the acquisition date, as the excess of the fair value of the consideration paid over the fair value of the identified net assets acquired.

The consideration for the Company’s business acquisitions may include future payments that are contingent upon the occurrence of a particular event or events. The obligations for such contingent consideration payments are recorded at fair value on the acquisition date. The contingent consideration obligations are then evaluated each reporting period. Changes in the fair value of contingent consideration, other than changes due to payments, would be recognized as a gain or loss and recorded condensed consolidated statement of operations.

If determined to be an asset acquisition, the Company accounts for the transaction under ASC 805-50 Business Combinations – Related Issues, which requires the acquiring entity in an asset acquisition to recognize assets acquired and liabilities assumed based on the cost to the acquiring entity on a relative fair value basis, which includes transaction costs in addition to consideration given. No gain or loss is recognized as of the date of acquisition unless the fair value of non-cash assets given as consideration differs from the assets’ carrying amounts on the acquiring entity’s financial statements. Consideration transferred that is non-cash will be measured based on either the cost (which shall be measured based on the fair value of the consideration given) or the fair value of the assets acquired and liabilities assumed, whichever is more reliably measurable. Goodwill is not recognized in an asset acquisition and any excess consideration transferred over the fair value of the net assets acquired is allocated to the identifiable assets based on relative fair values.

Significant Risks and Uncertainties

In response to the ongoing COVID-19 pandemic, we have taken and continue to take active measures designed to address and mitigate the impact of the COVID-19 pandemic on our business, such as remote working policies, facilitating management’s periodic communication to address employee and business concerns and providing frequent updates to our Board of Directors (“Board”). We anticipate that the COVID-19 pandemic may also have an impact on the clinical development timelines for certain of our clinical programs. We also anticipate that the COVID-19 pandemic may have an impact on our supply chain. The COVID-19 pandemic and associated lockdowns have resulted in a decrease in healthcare utilization broadly and specifically lead to a continuing reduction in the utilization of physician-administered oncology products including Belrapzo and Bendeka. In addition, the COVID-19 pandemic has delayed the timing of certain litigation and we anticipate that such delays will continue for the duration of the pandemic. The extent to which the COVID-19 pandemic will continue to impact our business, clinical development and regulatory efforts, supply chain and sales efforts, corporate development objectives and the value of, and market for, our common stock will depend on future developments that are highly uncertain and cannot be predicted with confidence at this time. The global economic slowdown, the overall disruption of global healthcare systems and other risks and uncertainties associated with the pandemic have impacted our operations and could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

In addition, the U.S. government and other nations have imposed significant restrictions on most companies' ability to do business in Russia as a result of the ongoing military conflict between Russia and Ukraine. It is not possible to predict the broader or longer-term consequences of this conflict, which could include further sanctions, embargoes, regional instability, geopolitical shifts and adverse effects on macroeconomic conditions, security conditions, currency exchange rates and financial markets. Such geopolitical instability and uncertainty could have a negative impact on our ability to further expand our business and to otherwise generate revenues and develop our product candidates. In addition, a significant escalation or expansion of economic disruption or the conflict's current scope could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

We may opportunistically seek access to additional capital to fund potential licenses, acquisitions or investments to expand our operations or for general corporate purposes. Raising additional capital could be accomplished through one or more public or private debt or equity financings, collaborations or partnering arrangements. As a result of the COVID-19 pandemic, as well as the ongoing military conflict between Russia and Ukraine and the related sanctions imposed against Russia, and countermeasures related thereto in addition to macroeconomic conditions including rising inflation, the global credit and financial markets have experienced significant volatility and disruption. If these market conditions persist and deepen, we could

experience an inability to access additional capital or our liquidity could otherwise be impacted, which could in the future negatively affect our capacity for certain corporate development transactions or our ability to make other important, opportunistic investments or acquisitions. An inability to borrow or raise additional capital in a timely manner and on attractive terms could prevent us from expanding our business or taking advantage of acquisition opportunities, and could otherwise have a material adverse effect on our business and growth prospects. In addition, if we use a substantial amount of our funds for any such potential acquisition or investment activities, we may not have sufficient additional funds to conduct all of our operations in the manner we would otherwise choose. Furthermore, any equity financing would be dilutive to our shareholders, and any financing could require the consent of the lenders under our credit facility.

We are subject to other challenges and risks specific to our business and our ability to execute on our business plan and strategy, as well as risks and uncertainties common to companies in the pharmaceutical industry with research and development operations, including, without limitation, risks and uncertainties associated with: delays or problems in obtaining clinical supply; obtaining regulatory approval of product candidates; loss of single source suppliers or failure to comply with manufacturing regulations; identifying, acquiring or in-licensing additional products or product candidates; product development and the inherent uncertainty of clinical success; the challenges of protecting and enhancing intellectual property rights; and the challenges of complying with applicable regulatory requirements. In addition, as the ongoing COVID-19 pandemic, geopolitical and macroeconomic conditions affect our business and results of operations, they may also have the effect of heightening many of the other risks and uncertainties discussed above.

Use of Estimates

These condensed consolidated financial statements are presented in U.S. dollars and are prepared in accordance with U.S. GAAP. The preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the condensed consolidated financial statements including disclosure of gross to net estimates as of the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period and accompanying notes. Our critical accounting policies are those that are both most important to our financial condition and results of operations and also 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. We anticipate that the COVID-19 pandemic will continue to disrupt our supply chain and marketing and sales efforts for certain of our products, although it is not currently expected that any disruption would be significant. As of the date of issuance of these condensed consolidated financial statements, we are not aware of any specific event or circumstance that would require us to update our estimates, assumptions and judgments or revise the carrying value of our assets or liabilities. Because of the uncertainty of factors surrounding the estimates or judgments used in the preparation of the condensed consolidated financial statements, actual results may materially vary from these estimates, and any such differences may be material to our condensed consolidated financial statements.

Cash and Cash Equivalents

We consider 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.

We, at times, maintain balances with financial institutions in excess of the Federal Deposit Insurance Corporation (“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.

Financial assets and liabilities measured and recognized at fair value are as follows:

	June 30, 2022			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Money market funds	$ 30,783	$ 30,783	$ —	$ —
Convertible promissory note	4,653	—	—	4,653
Embedded derivative asset in convertible promissory note	1,027	—	—	1,027
Investment in Tyme	2,800	2,800	—	—
Liability:				
Foreign currency exchange contracts	685	—	685	—

	December 31, 2021			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Money market funds	$ 57,357	$ 57,357	$ —	$ —
Convertible promissory note	4,021	—	—	4,021
Embedded derivative asset in convertible promissory note	962	—	—	962
Investment in Tyme	6,030	6,030	—	—

We recognize transfers between levels within the fair value hierarchy, if any, at the end of each quarter. There were no transfers in or out of Level 1, Level 2 or Level 3 during the three and six months ended June 30, 2022.

Our investment in the convertible promissory note and the embedded derivative are classified as Level 3. We analyzed and accessed the embedded derivative feature contained in the convertible promissory note agreement. We used a probability factor to value the embedded derivative asset based on management's best estimate, including the principal and estimated accrued interest among other contractual terms. The convertible promissory note is accounted for as available for sale. The convertible promissory note is reported at fair value with unrealized gains and losses included in Accumulated other comprehensive income (loss). Refer to Note 13, Convertible Promissory Note for further details.

In the first quarter of 2022, we entered into a forward contract to purchase euros at a forward rate. The contract settled in the second quarter of 2022 and was used to economically hedge the cost of the acquisition of Acacia. For the three and six months ended June 30, 2022, the fair value adjustment on the forward contract was a loss of $5.5 million and a loss of $4.9 million, respectively, and the adjustments were recorded in Other (expense) income on our condensed consolidated statement of operations.

In second quarter of 2022, Eagle entered into an additional forward contract to purchase euros at a forward rate. The contract is expected to be settled in the third quarter of 2022 and was used to economically hedge the assumed Acacia euro dominated debt. As of June 30, 2022, the forward contract was remeasured to reflect changes in the fair value determined using forward rates, which are observable market inputs, multiplied by the notional amount. The contract has not been designated as an accounting hedge, and therefore the net change in the fair value is reported in the condensed consolidated statement of operations. For the three and six months ended June 30, 2022, the fair value adjustment on the forward contract was a loss of $0.7 million and a loss of $0.7 million, respectively, and the adjustments were recorded in Other (expense) income on our condensed consolidated statement of operations. The fair value of the forward contract is recorded in accrued expense and other liabilities as of June 30, 2022 on our condensed consolidated balance sheet.

Our investment in restricted shares of common stock of Tyme Technologies, Inc. ("Tyme") are classified as Level 1. Refer to Note 12, License and Collaboration Agreements for further details.

The fair value of the previously existing legacy term loan is classified as Level 2 for the periods presented and approximates its book value due to the variable interest rate. The fair value of the euro denominated loan acquired as part of the acquisition of Acacia is classified as Level 2 and was recorded on the balance sheet at fair value upon acquisition. As of June 30, 2022, the fair value of the euro denominated loan approximated book value.

Refer to Note 14. Business Acquisition for details regarding fair value measurements in connection with the acquisition of Acacia.

Intangible Assets

We review the recoverability of our finite-lived intangible assets and long-lived assets for indicators of impairments. Events or circumstances that may require an impairment assessment include negative clinical trial results, a significant decrease in the market price of the asset, or a significant adverse change in legal factors or the manner in which the asset is used. If such indicators are present, we assess the recoverability of affected assets by determining if the carrying value of such assets is less than the sum of the undiscounted future cash flows of the assets. If such assets are found to not be recoverable, we measure the amount of the impairment by comparing to the carrying value of the assets to the fair value of the assets. We determined that no indicators of impairment of finite-lived intangible assets or long-lived assets existed as of June 30, 2022.

Goodwill

Goodwill represents the excess of purchase price over the fair value of net assets acquired in the Eagle Biologics and Acacia acquisitions. 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. We did not identify any impairment to goodwill during the periods presented.

Concentration of Major Customers and Vendors

The Company is exposed to risks associated with extending credit to customers related to the sale of products. The Company does not require collateral to secure amounts due from its customers. The Company uses an expected loss methodology to calculate allowances for trade receivables. The Company's measurement of expected credit losses is based on relevant information about past events, including historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount. The Company does not currently have a material allowance for collectible trade receivables.

Further, the Company is dependent on its commercial partner to market and sell Bendeka; therefore, the Company's future revenues are highly dependent on the collaboration and distribution arrangement with Teva.

Teva markets Bendeka through a license agreement with the Company. Pursuant to that license 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 on our balance sheet, 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:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenues				
Teva - See *Revenue Recognition*	36 %	64 %	29 %	65 %
Customer A	19 %	10 %	19 %	9 %
Customer B	7 %	8 %	12 %	8 %
Customer C	12 %	4 %	13 %	4 %
Customer D	7 %	9 %	9 %	10 %
Other	19 %	5 %	18 %	4 %
	100 %	100 %	100 %	100 %

	June 30, 2022	December 31, 2021
Accounts receivable		
Teva - See *Revenue Recognition*	32 %	63 %
Customer A	21 %	13 %
Customer B	18 %	13 %
Customer C	6 %	2 %
Customer D	4 %	2 %
Other	19 %	7 %
	100 %	100 %

Inventories

Inventories are recorded at the lower of cost and net realizable value, with cost determined on a first-in first-out basis. We periodically review the composition of inventory in order to identify obsolete, slow-moving or otherwise non-saleable items. If these items are observed and there are no alternate uses for the inventory, we will record a write-down to lower of cost and net realizable value in the period that the decline in value is first recognized.

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 in licensing intellectual property related to new projects, 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 us by our 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 $1.8 million and $0.4 million for the three months ended June 30, 2022 and 2021, respectively, and $3.4 million and $0.7 million for the six months ended June 30, 2022 and 2021, respectively.

Income Taxes

We account for income taxes using the liability method in accordance with ASC 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 (loss) 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 a 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 - Revenue from Contracts with Customers ("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 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.

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. Receivables from our product sales have payment terms ranging from 30 to 75 days with select extended terms to wholesalers on purchases of product launch quantities.

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 generally utilizing the expected value method to which the Company expects to be entitled. As such, revenue on sales to end users for vasopressin, Pemfexy, Belrapzo, Ryanodex, Barhemsys, and Byfavo 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 allowance for chargebacks 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 generally 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.

Components of Gross-to-Net (GTN) Estimates

Chargebacks: Chargebacks are discounts that occur when certain contracted customers, including group purchasing organizations ("GPOs"), public health service institutions and federal government entities purchasing via the Federal Supply Schedule, purchase from the Company's distributors. The Company's distributors purchase product from us at invoice price, then resell the product to certain contracted customers on the basis of prices negotiated between us and the providers. The difference between the distributors' purchase price and the typically lower certain contracted customers' purchase price is refunded to the distributors through a chargeback credit. We record estimates for these chargebacks at the time of sale as deductions from gross revenues, with corresponding adjustments to our accounts receivable reserves and allowances.

The provision for chargebacks is the most significant provision in the context of the Company's gross-to-net adjustments in the determination of net revenue. Chargebacks are estimated based on payer mix and contracted price, adjusted for current period assumptions.

Commercial and Medicaid Rebates: The Company contracts with government agencies or collectively, third-party payors, so that vasopressin, Pemfexy, Belrapzo, Ryanodex, Barhemsys, and Byfavo will be eligible for purchase by, or partial or full reimbursement from, such third-party payors. The Company estimates the rebates it will provide to third-party payors and deducts these estimated amounts from total gross product revenues at the time the revenues are recognized. These reserves are recorded in the same period in which the revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability. The current liability is included in accrued expenses and other current liabilities on the consolidated balance sheets. The Company estimates the rebates that it will provide to third-party payors based upon (i) the Company's contracts with these third-party payors, (ii) the government mandated discounts applicable to government-funded programs, (iii) a range of possible outcomes that are probability-weighted for the estimated payer mix, and (iv) information obtained from the Company's distributors.

The information that the Company also considers when establishing its rebate reserves are purchases by customers, projected annual sales for customers, actual rebates payments made, processing time lags, and for indirect rebates, the level of inventory in the distribution channel that will be subject to indirect rebates. We do not provide incentives designed to increase shipments to our customers that we believe would result in out-of-the-ordinary course of business inventory for them. The Company regularly reviews and monitors estimated or actual customer inventory information at its largest distributors for its key products to ascertain whether customer inventories are in excess of ordinary course of business levels.

Product Returns: The Company's provision for product returns based on the factors noted above generally encompass a time range from 12 to 48 months after revenue is recognized. The Company's distributors have the right to return unopened unprescribed vasopressin, Pemfexy, Belrapzo, Barhemsys, and Byfavo during certain time periods around the period beginning prior to the labeled expiration date and ending after the labeled expiration date. The Company estimates future product returns on sales of vasopressin, Pemfexy, Belrapzo, Barhemsys, and Byfavo based on: (i) data provided to the Company by its distributors (including weekly reporting of distributors' sales and inventory held by distributors that provided the Company with visibility into the distribution channel in order to determine what quantities were sold to retail pharmacies and other providers), (ii) data provided to the Company by a third-party data provider which collects and publishes prescription data, and other third parties, (iii) historical industry information regarding return rates for similar pharmaceutical products, (iv) the estimated remaining shelf life of vasopressin, Pemfexy, Belrapzo, Barhemsys, and Byfavo previously shipped and currently being shipped to distributors and (v) contractual agreements intended to limit the amount of inventory maintained by the Company's distributors. These reserves are recorded in the same period the related revenue is recognized, resulting in a reduction of product revenue and the establishment of a current liability which is included in accrued expenses and other current liabilities on the consolidated balance sheets.

Wholesaler fees and other incentives: The Company generally provides invoice discounts on vasopressin, Pemfexy, Belrapzo, Ryanodex, Barhemsys, and Byfavo sales to its distributors for prompt payment and fees for distribution services, such as fees for certain data that distributors provide to the Company. The payment terms for sales to distributors generally include a 2% discount for prompt payment which is generally defined in invoice terms as a range from 15 to 45 days, while the fees for distribution services are based on contractual rates agreed with the respective distributors. Based on historical data, the Company expects its distributors to earn these discounts and fees, and deducts the full amount of these discounts and fees from its gross product revenues and accounts receivable at the time such revenues are recognized. In certain cases, the Company may record the fees as accrued expenses if the Company expects that the fees will be paid rather than deducted by the distributor.

Royalty Revenue — The Company recognizes revenue from license arrangements with its commercial partners' net sales of products. Royalties are recognized as earned in accordance with contract terms when they can be reasonably estimated and collectability is reasonably assured. The Company's commercial partners are obligated to report their net product sales and the resulting royalty due to the Company within 25 days 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. Our receivables from royalty revenue are due 45-days from the end of the quarter.

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.

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, 2022.

Stock-Based Compensation

The Company utilizes stock-based compensation in the form of stock options, restricted stock units ("RSUs") and performance-based stock units ("PSUs"), each of which may be granted separately or in tandem with other awards.

Compensation expense is recognized in the Consolidated Statements of operations based on the estimated fair value of the awards at grant date ratably over the requisite service period, which generally equals the vesting period of the award.

The grant-date fair value of stock awards is based upon the underlying price of the stock on the date of grant. The grant-date fair value of stock option awards must be determined using an option pricing model. The Company uses the Black-Scholes

option pricing formula for determining the grant-date fair value of such awards. Option pricing models require the use of estimates and assumptions as to (a) the expected term of the option, (b) the expected volatility of the price of the underlying stock and (c) the risk-free interest rate for the expected term of the option.

The Company may also grant performance-based stock awards to employees from time-to-time in form of market condition or performance condition. The grant-date fair value of awards that vest based on achievement of certain market condition are determined using a Monte Carlo simulation technique. The grant-date fair value of awards that vest based on achievement of certain performance condition are determined using the accelerated attribution method once it is probable that the performance condition will be achieved.

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 options. 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, as calculated under the treasury method.

The anti-dilutive common share equivalents outstanding for the three and six months ended June 30, 2022 and 2021 were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	**2021**	**2022**	**2021**
Stock options	2,499,165	2,844,961	2,092,420	1,622,046
Restricted stock units	77,149	223,103	77,149	1,413,687
Total	2,576,314	3,068,064	2,169,569	3,035,733

The following table sets forth the computation for basic and diluted net (loss) earnings per share for the three and six months ended June 30, 2022 and 2021:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	**2021**	**2022**	**2021**
Numerator				
Net (loss) income	$ (9,450)	$ 3,612	$ 34,608	$ 3,191
Denominator				
Basic weighted average common shares outstanding	12,836,116	13,108,998	12,773,727	13,116,370
Dilutive effect of stock awards	—	153,166	178,061	177,550
Diluted weighted average common shares outstanding	12,836,116	13,262,164	12,951,788	13,293,920
Basic net (loss) earnings per share				
Basic net (loss) earnings per share	$ (0.74)	$ 0.28	$ 2.71	$ 0.24
Diluted net (loss) earnings per share				
Diluted net (loss) earnings per share	$ (0.74)	$ 0.27	$ 2.67	$ 0.24

All potentially dilutive items were excluded from the diluted share calculation for the three months ended June 30, 2022 because their effect would have been anti-dilutive, as the Company was in a loss position.

Recent Accounting Pronouncements

In March 2020, the FASB issued *Update 2020-04 Reference Rate Reform (Topic 848), Facilitation of the Effects of Reference Rate Reform on Financial Reporting* to provide temporary optional guidance to ease the potential burden in accounting for reference rate reform. The amendments in Update 2020-04 are elective and apply to all entities that have contracts, hedging relationships, and other transactions that reference LIBOR, formerly known as the London Interbank Offered Rate,
or another reference rate expected to be discontinued due to reference rate reform. The new guidance provides optional expedients, including; (1) Simplify accounting analyses under current GAAP for contract modifications, such as modifications of contracts within the scope of Topic 470, Debt, that will be accounted for by prospectively adjusting the effective interest rate, as if any modification was not substantial. That is, the original contract and the new contract shall be accounted for as if they were not substantially different from one another; (2) Simplify the assessment of hedge effectiveness and allow hedging relationships affected by reference rate reform to continue; (3) Allow a one-time election to sell or transfer debt securities classified as held to maturity before January 1, 2020 that reference a rate affected by reference rate reform. The amendments are effective for all entities from the beginning of an interim period that includes the issuance date of the ASU. An entity may elect to apply the amendments prospectively through December 31, 2022. The adoption of ASU 2020-4 is not expected to have a material impact on our financial position or results of operations.

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires an acquirer to recognize and measure contract assets and liabilities acquired in a business combination in accordance with Revenue from Contracts with Customers (Topic 606) rather than adjust them to fair value at the acquisition date. This accounting standard update will be effective for public business entities in fiscal years beginning after December 15, 2022, including interim periods within those fiscal years; therefore for us beginning in the first quarter of 2023. We are currently evaluating the impact of this accounting standard, but do not expect it to have a material impact on our condensed consolidated financial statements.

In March 2022, the FASB issued ASU 2022-01, *Derivatives and Hedging (Topic 801): Fair Value Hedging – Portfolio Layer Method*, which expands the current single-layer hedging model to allow multiple-layer hedges of a single closed portfolio of prepayable financial assets or one or more beneficial interests secured by a portfolio of prepayable financial instruments under the method. This accounting standards update will be effective for public business entities in fiscal years beginning after December 15, 2022, including interim periods within those fiscal years; therefore for us beginning in the first quarter of 2023. We are currently evaluating the impact of this accounting standard, but do not expect it to have a material impact on our condensed consolidated financial statements.

There are other new accounting pronouncements issued by the FASB that we have adopted or will adopt, as applicable. We do not believe any of these accounting pronouncements have had, or will have, a material impact on our condensed consolidated financial statements or disclosures.

3. Property and Equipment, net

Property and equipment consisted of the following:

	June 30, 2022	December 31, 2021	Estimated Useful Life (years)
Furniture and fixtures	$ 1,525	$ 1,525	7
Office equipment	1,077	1,077	3
Equipment	4,003	3,834	7
Leasehold improvements	1,155	1,155	2
	7,760	7,591	
Less accumulated depreciation	(6,301)	(5,955)	
Property and equipment, net	$ 1,459	$ 1,636	

Depreciation expense related to property and equipment amounted to $0.2 million and $0.2 million for the three months ended June 30, 2022 and 2021, respectively, and $0.4 million and $0.4 million for the six months ended June 30, 2022 and 2021, respectively.

4. Inventories

Inventories consist of the following:

	June 30, 2022	December 31, 2021
Raw materials (1)	$ 6,657	$ 7,317
Work in process (2)	16,855	9,666
Finished products (3)	34,200	4,925
Total inventories	$ 57,712	$ 21,908

(1) $1.7 million of Raw materials represents inventory acquired with Acacia as detailed in Note 14.

(2) $2.9 million of Work in process represents inventory acquired with Acacia as detailed in Note 14.

(3) $21.5 million of Finished products represents inventory acquired with Acacia as detailed in Note 14.

5. Balance Sheet Accounts

Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following:

	June 30, 2022	December 31, 2021
Prepaid income taxes	$ 112	$ 1,173
Prepaid FDA user fee and advances to clinical research organization	369	1,108
Prepaid insurance	1,568	196
Advances to commercial manufacturers	2,043	2,354
Prepaid R&D	106	—
Convertible promissory note, net	6,210	5,312
Other receivable related to cost sharing arrangement with commercial partner	951	347
All other	2,903	1,400
Total prepaid expenses and other current assets	$ 14,262	$ 11,890

Accrued Expenses

Accrued expenses consist of the following:

	June 30, 2022	December 31, 2021
Accrued product sales reserves	$ 21,475	$ 4,390
Income taxes payable	10,270	—
Royalties payable to commercial partners	10,815	5,085
Accrued salary and other compensation	2,775	8,466
Accrued professional fees	6,408	2,013
Accrued research & development	4,846	4,100
Current portion of lease liability	1,476	1,309
Inventory received but not invoiced	7,341	6,177
Accrued other	1,744	798
Total accrued expenses	$ 67,150	$ 32,338

Leases

We lease office space in Woodcliff Lake, New Jersey for our principal office under an amended lease agreement through June 2025. We also lease a lab space in Cambridge, Massachusetts under a lease agreement through April 2024, office space located in Indianapolis, Indiana through November 2023, and an office space located in Palm Beach Gardens, Florida. All of our leases are classified as operating leases and have remaining lease terms of approximately 2.5 years. The principal office and the lab space leases include renewal options to extend the lease for up to 5 years. Furthermore, we have not elected the practical expedient to separate lease and non-lease components for all classes of underlying assets.

The table below summarizes our total lease costs included in the condensed consolidated financial statements, as well as other required quantitative disclosures (in thousands):

	June 30, 2022	December 31, 2021
Operating lease cost	$ 760	$ 1,407
Total lease cost	$ 760	$ 1,407
Other information:		
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows for operating leases	$ 760	$ 1,407
Right-of-use assets obtained in exchange for new operating lease liabilities	$ —	$ 270
Weighted-average remaining lease term - operating leases	2.5 years	3.1 years
Weighted-average discount rate - operating leases	6.0 %	6.0 %

Balance Sheet Classification as of June 30, 2022:	
Current lease liabilities (included with Accrued expenses and other liabilities)	$ 1,476
Long-term lease liabilities (included with Other long-term liabilities)	2,256
Total lease liabilities	$ 3,732

6. Intangible Assets, Net

The gross carrying amounts and net book value of our intangible assets are as follows:

		June 30, 2022		
	Useful Life (In Years)	Gross Carrying Amount	Accumulated Amortization	Net Book Value
Barhemsys intangible *(1)*	9	$ 68,000	$ (468)	$ 67,532
Byfavo intangible *(1)*	9	36,000	(230)	35,770
Ryanodex intangible *(2)*	9	15,000	(6,241)	8,759
Vasopressin milestone (3)	1	750	(337)	413
Total		$ 119,750	$ (7,276)	$ 112,474

		December 31, 2021		
	Useful Life (In Years)	Gross Carrying Amount	Accumulated Amortization	Net Book Value
Ryanodex intangible *(1)*	9	$ 15,000	$ (5,079)	$ 9,921
Developed technology	5	8,100	(8,100)	—
Vasopressin milestone (3)	1	750	—	750
Total		$ 23,850	$ (13,179)	$ 10,671

(1) Represents intangible assets acquired in the Acacia acquisition as detailed in Note 14.

(2) Represents a one-time payment made to reduce the royalties payable to a third party on Ryanodex net sales.

(3) Represents milestone paid to a third party upon FDA approval of vasopressin.

Amortization expense was $1.5 million and $0.7 million for the three months ended June 30, 2022 and 2021, respectively and $2.2 million and $1.4 million for the six months ended June 30, 2022 and 2021, respectively.

Estimated Amortization Expense for Intangible Assets

Based on definite-lived intangible assets recorded as of June 30, 2022, and assuming that the underlying assets will not be impaired and that we will not change the expected lives of the assets, future amortization expenses are estimated as follows:

	Estimated Amortization Expense
Year Ending December 31,	
2022 (remainder)	7,379
2023	14,405
2024	14,127
2025	13,886
2026	11,584
Thereafter	51,093
Total estimated amortization expense	$ 112,474

7. Common Stock and Stock-Based Compensation

Common Stock

Share Repurchase Program

In March 2020, our board of directors approved our current share repurchase program (the "Share Repurchase Program"), providing for the repurchase of up to an aggregate of $160 million of our outstanding common stock.

Under the Share Repurchase Program, we are 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. The 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 our cash resources.

On September 23, 2020, our Board of Directors approved a $25 million accelerated share repurchase (“ASR”) transaction with JPMorgan Chase Bank, National Association (“JP Morgan”) as part of our existing $160 million share repurchase program. The specific number of shares to be repurchased pursuant to the ASR is based on the average of the daily volume weighted average share prices of our common stock, less a discount, during the term of the ASR program. Under the terms of our agreement with JP Morgan, we paid $25 million to JP Morgan on September 24, 2020, and received 550,623 shares, representing the notional amount of the ASR, based on the average of the daily volume weighted average share prices of our common stock, less a discount, during the term of the ASR, which was $45.40. The ASR was completed in the fourth quarter of 2020. We determined the ASR contained a forward contract and therefore we recorded fair value adjustments on the accelerated share repurchase agreement in the amount of $3 million which was a loss recorded in Other expense on our consolidated statements of operations in the year ended December 31, 2020.

As of June 30, 2022, we had repurchased an aggregate of 4,278,831 shares of common stock for an aggregate of $236.1 million pursuant to our share repurchase programs in effect since August 2016.

Stock-Based Compensation

In November 2013, our 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 first quarter of 2018, we introduced a new long-term incentive program with the objective to better align the stock-based awards granted to management with our 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 RSUs and PSUs. PSUs are comprised of awards: i) that would have vested upon achievement of certain share price appreciation conditions or ii) that would have vested upon achievement of certain milestone events.

A summary of stock option, RSU and PSU activity under the 2014 Plan during the six months ended June 30, 2022 and 2021 is presented below:

	Stock Options	RSUs	PSUs
Outstanding as of December 31, 2020	3,331,890	328,396	97,750
Granted	106,000	106,600	159,000
Stock options exercised/RSUs vested/PSUs vested	(94,328)	(94,273)	—
Forfeited or expired	(283,998)	(29,796)	(97,750)
Outstanding as of June 30, 2021	3,059,564	310,927	159,000
Outstanding as of December 31, 2021	2,814,878	263,306	137,300
Granted	91,700	148,000	228,200
Stock options exercised/RSUs vested/PSUs vested	(62,321)	(101,898)	—
Forfeited or expired	(40,044)	(7,082)	—
Outstanding as of June 30, 2022	2,804,213	302,326	365,500

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,	
	2022	2021	2022	2021
Risk-free interest rate	3.00% - 3.31%	1.01% - 1.12%	1.47% - 3.31%	0.51% - 1.12%
Volatility	48.42%	55.66%	46.88%	56.10%
Expected term (in years)	6.08 years	5.96 years	5.65 years	5.67 years
Expected dividend yield	0.0%	0.0%	0.0%	0.0%

RSUs

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

PSUs

During the first quarter of 2022, we granted 228.2 thousand market condition PSUs based on our total shareholder return ("TSR") relative to the TSR of each member of the S&P Biotechnology Select Industry Index (the defined peer group) with a weighted-average grant date fair value of $70.45 for the CEO and $53.43 for other executives per respective PSU. 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 1.6%, an expected volatility of 41%, contractual term of 3 years, and no expected dividend yield.

The fair value of market condition PSUs granted to employees was estimated using a Monte Carlo simulation model. Inputs used in the calculation are described above.

The fair value of performance condition PSUs granted to employees was estimated based on the trading price of our common stock on the date of grant adjusted for probability of achievement of the performance conditions as described above.

We did not recognize any expense for performance based PSUs granted to employees based on our estimated probability of achievement as described above.

We recognized stock-based compensation in our condensed consolidated statements of operations for the three and six months ended June 30, 2022 and 2021 as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Stock options	$ 1,671	$ 2,547	$ 3,534	$ 5,878
RSUs	1,289	1,217	2,924	3,005
PSUs	1,540	517	2,337	1,906
Stock-based compensation expense	$ 4,500	$ 4,281	$ 8,795	$ 10,789
Selling, general and administrative	$ 3,899	$ 3,640	$ 7,551	$ 9,253
Research and development	601	641	1,244	1,536
Stock-based compensation expense	$ 4,500	$ 4,281	$ 8,795	$ 10,789

8. Commitments

Our future material contractual obligations as of June 30, 2022, included the following:

Obligations	Total	2022	2023	2024	2025	Beyond
Operating leases (1)	$ 4,033	$ 827	$ 1,671	$ 1,122	$ 413	$ —
Credit facility and Term Loans (2)	48,118	22,000	4,571	13,059	8,488	—
Purchase obligations (3)	74,097	74,097	—	—	—	—
Total obligations	$ 126,248	$ 96,924	$ 6,242	$ 14,181	$ 8,901	$ —

(1) We lease our corporate office location. The term of our existing lease expires on June 30, 2025. We also lease our lab space under a lease agreement through April 2024, office space located in Indianapolis, Indiana through November 2023, and an office space in Palm Beach Gardens, Florida, through October 31, 2024. Rental expense for the operating leases was $0.4 million and $0.3 million, for the three months ended June 30, 2022 and 2021, respectively. Rental expense for the operating leases was $0.8 million and $0.7 million for the six months ended June 30, 2022 and 2021.The remaining future lease payments under the operating leases are $4.0 million as of June 30, 2022.

(2) Refer to Note 9, “Debt” for further information regarding our Credit Agreement and Term Loans.

(3) As of June 30, 2022, we had purchase obligations in the amount of $74.1 million which represents the contractual commitments under contract manufacturing and supply agreements with suppliers. The obligations under the supply agreements are primarily for finished product, inventory, and research and development.

9. Debt

As of June 9, 2022, we assumed the borrowings of €25 million as part of the acquisition detailed in Note 14 Business Acquisition. These borrowings are in two tranches; Tranche A for a €15 million term loan with periodic payments through July 31, 2025; and Tranche B for a €10 million term loan with periodic payments through September 30, 2025. Each tranche bears an annual interest rate of 9%.

On November 8, 2019, we entered into the Second Amended and Restated Credit Agreement (the "Credit Agreement"), with JPMorgan Chase Bank, N.A., as administrative agent (the "Agent") and the lenders party thereto. The terms and amounts borrowed under the Credit Agreement includes a drawn term loan of $40 million and an undrawn revolving credit facility of $110 million. The schedule of principal payments for the new term loan facility was extended to November 8, 2022.

We classified debt related to the pre-existing term loan of $21.8 million as current on the condensed consolidated balance sheet as of June 30, 2022. Per the terms of the Credit Agreement, we are limited in our ability to pay dividends. As of June 30, 2022, we were in compliance with each of the senior secured net leverage ratio; total net leverage ratio; and fixed charge coverage ratio covenants.
The term loan facility bears interest at the Adjusted LIBOR (equal to (a) the LIBOR for such Interest Period multiplied by (b) the Statutory Reserve Rate as established by Board of Governors of the Federal Reserve System of the United States of America) for the interest period in effect for such borrowing plus the applicable rate as described below. We and the Agent may amend the Credit Agreement to replace the LIBOR with a Benchmark Replacement, described below.

Loans under the Credit Agreement bear interest 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 Credit Agreement), or (b) the Benchmark Replacement which is defined as the greatest of the prime lending rate, or the NYFRB Rate (the rate for a federal funds transaction) in effect on such day plus ½ of 1% or the Adjusted LIBO Rate for a one month Interest Period on such day plus 1% plus an applicable margin ranging from 1.25% to 2.0% per annum, based upon the total net leverage ratio.
We are required to pay a commitment fee on the unused portion of the new revolving credit facility in the Credit Agreement at a rate ranging from 0.35% to 0.45% per annum based upon the total net leverage ratio.

As of June 30, 2022, we had $0.2 million of unamortized deferred debt issuance costs as part of current debt in our condensed consolidated balance sheets.

Debt Maturities	**As of June 30, 2022**
2022 (remainder)	$ 22,000
2023	4,571
2024	13,059
2025	8,488
Total	$ 48,118

10. Income Taxes

	Three Months Ended June 30,		**Six Months Ended June 30,**	
	2022	**2021**	**2022**	**2021**
Income tax provision	$ (3,582)	$ (1,936)	$ (17,184)	$ (3,697)
Effective tax rate	(61)%	35 %	33 %	54 %

For interim periods, we recognize an income tax provision 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 permanent differences, and certain discrete items whose tax effect, when material, is recognized in the interim period in which they occur.

The effective tax rate for the three and six months ended June 30, 2022, reflects an interim tax provision resulting from impact of certain non-deductible executive compensation and the impact of certain non-deductible cost from the acquisition of Acacia, partially offset by credits for research and development activity. The effective tax rate for the three and six months ended June 30, 2021, reflects the impact of certain non-deductible executive compensation and expired stock compensation and the impact of certain non-deductible cost from the acquisition of Acacia, partially offset by credits for research and development activity and excess tax deduction we can realize for our stock based awards. We review the realizability of our deferred tax assets on a quarterly basis, or whenever events or changes in circumstances indicate that a review is required. In determining the requirement for a valuation allowance, the historical and projected financial results of the legal entity or consolidated group recording the net deferred tax asset are considered, along with any other positive or negative evidence. Since future financial results, including the fair value adjustment on our investment in Tyme may differ from previous estimates, periodic adjustments to our valuation allowances may be necessary.

Deferred income tax assets as of June 30, 2022 consisted of temporary differences primarily related to the net operating losses of Acacia, stock-based compensation and research and development tax credit carryforwards, partially offset by temporary differences related to intangible assets and research and development expenses.

We file income tax returns in the U.S. federal jurisdiction and several states. We are currently under audit by the Internal Revenue Service and three State tax jurisdictions. We had no amount recorded for any unrecognized tax benefits as of June 30, 2022. We regularly evaluate our 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. We reflect interest and penalties attributable to income taxes, to the extent they arise, as a component of income tax provision or benefit.

11. Legal Proceedings

In addition to the below legal proceedings, from time to time, we 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, we currently believe that the final outcome of these ordinary course matters, or matters discussed below, will not have a material adverse effect on our business nor have we recorded any loss in connection with these matters because we believe that loss is neither probable nor estimable. Regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

Patent Litigation

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; Eagle Pharmaceuticals, Inc. et al. v. Lupin, Ltd. and Lupin Pharmaceuticals, Inc.; Teva Pharmaceuticals Int'l GmbH et al v. Aurobindo Pharma Ltd., Aurobindo Pharma USA, Inc., and Eugia Pharma Specialities Ltd.; Teva Pharmaceuticals Int'l GmbH et al v. Accord Healthcare Inc., Accord Healthcare Ltd., and Intas Pharmaceuticals Ltd.; Teva Pharmaceuticals Int'l GmbH et al v. Dr. Reddy's Laboratories, Ltd., and Dr. Reddy's Laboratories, 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. Slayback Pharma Limited Liability Company ("Slayback"), Apotex Inc. and Apotex Corp. ("Apotex"), Fresenius Kabi USA, LLC ("Fresenius"), Mylan Laboratories Limited ("Mylan"), Lupin, Ltd. and Lupin Pharmaceuticals, Inc. ("Lupin"), and Aurobindo Pharma, Ltd, Aurobindo Pharma USA, Inc., and Eugia Pharma Specialities Ltd ("Aurobindo") have filed Abbreviated New Drug Applications ("ANDA's") 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.

We, Cephalon, Inc. and/or Teva Pharmaceuticals International GMBH (together the "Patentees"), filed separate suits against Slayback, Apotex, Fresenius, Mylan, Hospira, Lupin, and Aurobindo 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) and May 11,

2020 (Aurobindo). 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, 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 and of U.S. Patent Nos. 8,609,707, 9,265,831, 9,572,796, 9,572,797, 9,034,908, 9,144,568, 9,572,887, 9,597,397, 9,597,398, 9,597,399, 9,000,021, 9,579,384, 10,010,533, and 10,052,385 against Aurobindo. 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. 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. The Slayback I, Slayback II, Apotex, Fresenius and Mylan cases have been consolidated for all purposes (the "Consolidated Bendeka Litigation"), and a bench trial in these cases was held September 9-19, 2019. On April 27, 2020, the district court held that the asserted patents are valid and infringed by Slayback, Apotex, Fresenius and Mylan. On July 6, 2020, the district court entered a final judgment reflecting this decision, stating that pursuant to 35 U.S.C. § 271(e)(4)(A), the FDA shall not approve Apotex's, Fresenius's, Mylan's, or Slayback's ANDA products on a date which is earlier than January 28, 2031, and enjoining Apotex, Fresenius, Mylan, and Slayback from commercially manufacturing, using, offering to sell, or selling within the US or importing into the US, their ANDA products before that date. On August 4, 2020, Apotex, Fresenius, and Mylan appealed this final judgment, and filed their opening briefs on November 4, 2020. Plaintiffs' responsive appeal brief was filed on February 12, 2021. Defendants' reply briefs were filed April 5, 2021. On August 2, 2021, Fresenius's appeal was dismissed pursuant to a settlement agreement reached with Patentees. Oral argument for the remaining defendants occurred on August 3, 2021. On August 13, 2021, the appeals court affirmed the trial court's decision. The mandate was issued on October 22, 2021. Apotex filed a petition for certiorari on December 14, 2021, which the Supreme Court denied on February 22, 2022.

Hospira filed a motion to dismiss, which was fully briefed on November 16, 2018. On December 16, 2019, the United States District Court for the District of Delaware denied Hospira's motion to dismiss with respect to U.S. Patent No. 9,572,887 and granted that motion with respect to the remaining patents. On December 15, 2020, the Court held a claim construction hearing, ruling in our favor on all claim terms. Fact discovery closed on April 1, 2021. Expert discovery ended on February 10, 2022. The parties reached a settlement on April 19, 2022, resulting in dismissal of the action.

Patentees filed suit against Hospira, Inc. on November 16, 2021. Patentees have asserted U.S. Patent No. 11,103,483. Hospira filed its Answer on December 8, 2021. The parties reached a settlement on April 19, 2022, resulting in dismissal of the action.

On March 10, 2020, the parties filed a stipulation and order of dismissal without prejudice as to Lupin, which the Court entered March 11, 2020.

Aurobindo answered the Complaint on July 20, 2020. The parties exchanged initial disclosures on December 11, 2020. Plaintiffs provided their infringement contentions on March 12, 2021. On October 20, 2021 the Court entered a stipulation of dismissal based on a settlement between the parties.

Patentees filed suit against Dr. Reddy's Laboratories on May 13, 2021. Patentees have asserted U.S. Patent Nos. 8,609,707, 9,265,831, 9,572,796, 9,572,797, 9,034,908, 9,144,568, 9,572,887, 9,597,397, 9,597,398, 9,597,399, 9,000,021, 9,579,384, 10,010,533, and 10,052,385. Dr. Reddy's answer was filed August 16, 2021. On December 27, 2021, Dr. Reddy's moved for judgment on the pleadings, seeking a dismissal of all patents except the '887 patent. On January 27, 2022, the Court entered an agreed stipulation by the parties dismissing all patents except the '887. On February 8, 2022, consistent with that stipulation, Patentees filed an Amended Complaint removing the dismissed patents and adding U.S. Patent No 11,103,483. Dr. Reddy's filed its Answer and Counterclaims to that Amended Complaint on February 22, 2022. Patentees' filed their Counterclaim Answer on March 15, 2022. Fact discovery is ongoing. A claim construction hearing is set for September 15, 2022, and the case is set for trial on May 1, 2023.

Patentees filed suit against Accord Healthcare on June 29, 2021. Patentees have asserted U.S. Patent Nos. 8,609,707, 9,265,831, 9,572,796, 9,572,797, 9,034,908, 9,144,568, 9,572,887, 9,597,397, 9,597,398, 9,597,399, 9,000,021, 9,579,384,

10,010,533, and 10,052,385. On January 13, 2022, Accord filed a Motion to Dismiss for failure to state a claim. On January 26, 2022, Patentees filed a First Amended Complaint, removing all patents except the '887 patent and additionally asserting U.S. Patent No. 11,103,483. Accord filed its Answer and Counterclaims to that Amended Complaint on February 10, 2022. On February 28, 2022, Patentees filed their Answer to Accord's Counterclaims. On March 29, 2022, the Court entered a schedule and consolidated this case with the above Dr. Reddy's case. Fact discovery is ongoing. A claim construction hearing is set for September 15, 2022, and the case is set for trial on May 1, 2023.

Eagle Pharmaceuticals, Inc. v. Slayback Pharma Limited Liability Company, Apotex, Inc. and Apotex Corp., Celerity Pharmaceuticals, LLC - (Belrapzo®)

Slayback filed an ANDA referencing Eagle's Belrapzo NDA. Slayback's ANDA includes challenges to one or more of the Belrapzo 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. Pursuant to a stipulation between the parties, Slayback is bound by any final judgment entered in the Consolidated Bendeka Litigation. This case is currently stayed.

Eagle Pharmaceuticals, Inc. v. Slayback Pharma Limited Liability Company, Apotex, Inc. and Apotex Corp., Celerity Pharmaceuticals, LLC - (Belrapzo®)

Slayback, Apotex, and Celerity Pharmaceuticals, LLC ("Celerity") filed NDAs referencing Eagle's Belrapzo NDA. The Company filed suits against Slayback, Apotex, and Celerity in the United States District Court for the District of Delaware on August 31, 2021 (Slayback and Apotex) and on January 11, 2022 (Celerity) alleging infringement of U.S. Patent No. 11,103,483. On September 22, 2021, both Slayback and Apotex filed their Answers. The suit against Slayback and Apotex is set for trial on September 29, 2022, and expert discovery is ongoing. On February 2, 2022, Celerity moved to dismiss the pending complaint. In response, the Company filed an Amended Complaint on March 1, 2022. Celerity filed its Answer to the Company's Amended Complaint on March 22, 2022. On April 19, 2022, Celerity moved for judgment on the pleadings. Briefing on that motion is closed and a decision is pending. On June 24, 2022, the Court entered a schedule coordinated with the above Accord and Dr. Reddy's cases. Fact discovery is ongoing. A claim construction hearing is set for September 15, 2022, and the case is set for trial on May 1, 2023.

Eagle Pharmaceuticals, Inc. v. Accord Healthcare Inc., Accord Healthcare Ltd., and Intas Pharmaceuticals Ltd. - (Belrapzo®)

Accord filed an NDA referencing Eagle's Belrapzo NDA. Accord's NDA includes challenges to one or more of the Belrapzo Orange Book-listed patents. On May 27, 2022, the Company filed a suit against Accord 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, 10,010,533, and 11,103,483. On July 6, 2022 the Company filed a First Amended Complaint, removing all patents except the '483 patent. Accord filed its Answer and Counterclaims on July 20, 2022. The Company's Answer to Accord's Counterclaims is due August 10, 2022.

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 is an alternative to Vasostrict, 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, and filed an amended answer and counterclaims on October 30, 2019. The court issued a Markman ruling on July 1, 2019. On December 20, 2019, Par dismissed with prejudice claims of three of the patents asserted against Eagle, and the Court entered an Order reflecting that dismissal on December 27, 2019. Mediation took place on March 3, 2020. On April 17, 2020, we submitted a letter requesting leave to file a motion for summary judgment of non-infringement. Par's responsive letter was submitted on May 8, 2020. On May 18, 2020, the court said it would hear non-infringement arguments at trial and not through summary judgment. Fact discovery ended in October 2019, and expert discovery ended in February 2020. Due to the COVID-19 pandemic, the trial, which was scheduled to begin May 18, 2020, was rescheduled to and occurred on July 7-9, 2021. Post-trial briefing was submitted on July 28, 2021. The Court issued an opinion

on August 31, 2021 and entered a final judgment of non-infringement in favor of Eagle on September 16, 2021. Par filed a Notice of Appeal of the final judgment on September 22, 2021, and the appeal was docketed with the United States Court of Appeals for the Federal Circuit on September 23, 2021. Par filed its principal appeal brief on December 6, 2021, Eagle filed its responsive appeal brief on February 1, 2022, and Par filed its reply appeal brief on February 22, 2022. Oral argument occurred before the Federal Circuit on July 7, 2022. The FDA approved Eagle's ANDA on December 15, 2021. On December 16, 2021, Par filed an emergency motion for temporary restraining order and preliminary injunction in the district court to enjoin Eagle from launching its product, but Par voluntarily withdrew the motion on December 20, 2021. Eagle commercially launched its ANDA product in January 2022. The 30-month stay of FDA approval expired on October 17, 2020. This suit is pending.

On December 7, 2020, Par filed a separate suit against us in the United States District Court for the District of New Jersey, asserting patent infringement of U.S. Patent No. 10,844,435, based on the filing of our ANDA seeking approval to manufacture and sell our vasopressin product. Eagle moved to dismiss Par's complaint on March 2, 2021. On March 22, 2021, Par amended its complaint to additionally assert U.S. Patent No. 10,920,278, and on April 5, 2021, Eagle moved to dismiss Par's amended complaint. Before the Court ruled on Eagle's Motion to Dismiss, on May 9, 2022, Par provided notice of the dismissal of the action under Rule 41(a)(1)(A)(i), and the Court granted the dismissal of the action on May 10, 2022.

12. License and Collaboration Agreements

License agreement with Combioxin

In August 2021, we entered into a license agreement with Combioxin, SA under which the Company was granted exclusive, worldwide development and commercialization rights to CAL02, a novel first-in-class antitoxin agent ready for Phase 2b/3 development for the treatment of severe pneumonia in combination with traditional antibacterial drugs. The Company will be solely responsible for the development, regulatory, manufacturing and commercialization activities of CAL02. Combioxin will assist the Company in transitioning the manufacturing and supply of CAL02 to the Company.

Under the terms of the agreement, we paid $10 million as upfront license consideration that was expensed immediately as research and development and is reflected within the operating activities of the consolidated statements of cash flows as of December 31, 2021. The Company may pay to Combioxin up to $105 million upon achievement of certain development, regulatory and sales based milestone payments plus royalty payments at royalty rates ranging in low double digit percentages on the net sales of all products sold, subject to certain adjustments as provided in the agreement. The Company is also obligated to make certain payments based upon amounts received by sublicensees under the agreement.

License agreement with AOP Orphan

In August 2021, we entered into a licensing agreement with AOP Orphan Pharmaceuticals GmbH ("AOP Orphan"), a privately owned Austrian company devoted to the treatment of rare and special diseases, for the commercial rights to its product, landiolol in the United States. Landiolol, a leading hospital emergency use product, is currently approved in Europe for the treatment of non-compensatory sinus tachycardia and tachycardic supraventricular arrhythmias. We supported the submission of a new drug application ("NDA") in the second quarter of 2022 by AOP Orphan to the FDA seeking approval for landiolol for the short term reduction of ventricular rate in patients with supraventricular tachycardia ("SVT"), including atrial fibrillation and atrial flutter.

Under the terms of the agreement, we paid a $5 million upfront license consideration that was expensed immediately as research and development and is reflected within the operating activities of the consolidated statements of cash flows as of December 31, 2021. We may pay to AOP Orphan up to $25 million upon achievement of certain regulatory milestone payments plus profit share payments, subject to certain adjustments as provided in the agreement. We also entered into a supply agreement at the same time as the licensing agreement.

Collaboration with Tyme

On January 7, 2020, Tyme and we announced a strategic collaboration to advance SM-88, an oral product candidate for the treatment of patients with cancer. SM-88 is an investigational agent in two Phase II studies, one for pancreatic cancer and another for prostate cancer.

Under the terms of a related co-promotion agreement, we would be responsible for 25% of the promotional sales effort of SM-88 and would receive 15% royalty on the net revenues of SM-88 in the United States. Tyme is responsible for clinical development, regulatory approval, commercial strategy, marketing, reimbursement and manufacturing of SM-88. Tyme retains the remaining 85% of net U.S. revenues and reserves the right to repurchase our U.S. co-promotion right for $200.0 million.

Our equity investment in Tyme is included in Other assets on our condensed consolidated balance sheet. For the three months ended June 30, 2022 and 2021, the fair value adjustments for the equity investment were a loss of $0.7 million and a loss of $5.2 million, respectively. For the six months ended June 30, 2022 and 2021, the fair value adjustments for the equity investment were a loss of $3.2 million and a gain of $0.4 million, respectively. These adjustments were recorded in Other (expense) income on our condensed consolidated statements of operations.

13. Convertible Promissory Note

During the first quarter of 2021, we invested $5 million in a convertible promissory note ("the note") of a privately held clinical-stage biotechnology company (the "issuer"). The note bears an 8% annual interest rate and has an 18-month term. The issuer is not required to make any principal or interest payments until the end of the term. The note, along with any accrued interest, may automatically convert into equity securities of the issuer under either a financing event or a change in control event as defined in the convertible promissory note agreement. The issuer's product development efforts could encounter technical or other difficulties that could increase their development costs more than expected. The issuer will likely require additional capital prior to obtaining certain regulatory approval or to be able to repay the convertible promissory note with accrued interest at the end of the term.

The following table summarizes the activity during the three months ended June 30, 2022;

	March 31, 2022	Fair Value Adjustments to the note	Accretion of Discount	Estimated Credit Loss	Interest Income	Fair Value Adjustment to Embedded Derivative	June 30, 2022
Fair value of the note	$ 5,418	$ 92	$ —	$ —	$ —	$ —	$ 5,510
Discount on the note	(82)	—	46	—	—	—	(36)
Estimated Credit Loss	(794)	—	—	(26)	—	—	(820)
Convertible Promissory Note, net	$ 4,542	$ 92	$ 46	$ (26)	$ —	$ —	$ 4,654
Embedded Derivative	$ 1,003	$ —	$ —	$ —	$ —	$ 23	$ 1,026
Interest Receivable	$ 429	$ —	$ —	$ —	$ 101	$ —	$ 530
Total in Other Current Assets	$ 5,974	$ 92	$ 46	$ (26)	$ 101	$ 23	$ 6,210

The following table summarizes the amounts recorded and activity during the six months ended June 30, 2022;

	December 31, 2021	Fair Value Adjustments to the note	Accretion of Discount	Estimated Credit Loss	Interest Income	Fair Value Adjustment to Embedded Derivative	June 30, 2022
Fair value of the note	$ 4,906	$ 604	$ —	$ —	$ —	$ —	$ 5,510
Discount on the note	(127)	—	91	—	—	—	(36)
Estimated Credit Loss	(758)	—	—	(62)	—	—	(820)
Convertible Promissory Note, net	$ 4,021	$ 604	$ 91	$ (62)	$ —	$ —	$ 4,654
Embedded Derivative	$ 962	$ —	$ —	$ —	$ —	$ 64	$ 1,026
Interest Receivable	$ 329	$ —	$ —	$ —	$ 201	$ —	$ 530
Total in Other Current Assets	$ 5,312	$ 604	$ 91	$ (62)	$ 201	$ 64	$ 6,210

14. Business Acquisition

On June 9, 2022, we completed our previously announced acquisition of the entire issued share capital of Acacia for cash consideration and common stock totaling 94.7 million euros, the equivalent of 0.90 euros per share, and an aggregate of 516,024 shares of our common stock. Each shareholder of Acacia received 0.68 euros in cash and 0.0049 shares of common stock of Eagle. Acacia is a hospital pharmaceutical company focused on the development and commercialization of new products aimed at improving the care of patients undergoing significant treatments such as surgery and other invasive procedures. The transaction was entered to expand Eagle's current portfolio of FDA approved hospital products with the addition of Barhemsys and Byfavo.

The Company evaluated the Business Acquisition under ASC 805, Business Combinations and ASU 2017-01, Business Combinations: Clarifying the Definition of a Business. The Company concluded that substantially all of the fair value of the gross assets acquired is not concentrated in a single identifiable asset or a group of similar identifiable assets. The transaction does not pass the screen test and thus management performed an assessment to determine if the acquired entities met the definition of a business. For the assessment, management considered whether it has acquired (i) inputs, (ii) processes, and (iii) outputs. Under ASC 805, to be considered a business, a set of activities and assets is required to have only the first two of the three elements, which together are or will be used in the future to create outputs. Management determined that the acquired entities met the definition of a business since the Company acquired inputs, processes capable of producing outputs and outputs.

Therefore, the acquisition has been accounted for under the acquisition method of accounting. Under the acquisition method, the total purchase price of the acquisition is allocated to the net tangible and identifiable intangible assets acquired and liabilities assumed based on the fair values as of the date of the acquisition.

The fair value of the consideration totaled $101.6 million, summarized as follows (in thousands):

	Fair Value of Consideration
Cash consideration	$ 77,971
Fair value of Eagle common stock issued	23,645
	$ 101,616

The Company recorded the assets acquired and liabilities assumed as of the date of the acquisition based on the information available as of that date. As the Company finalize the fair values of the assets acquired and liabilities assumed, purchase price adjustments may be recorded during the measurement period and such adjustments could be material. The Company will reflect measurement period adjustments, if any, in the period in which the adjustments are recognized.

The following table presents the preliminary allocation of the purchase price to the estimated fair values of the assets acquired and liabilities assumed as of the acquisition date (in thousands):

	Preliminary Purchase Price Allocation
Cash	$ 2,556
Net working capital, excluding cash	(2,158)
Inventory	26,942
Intangible assets	104,000
Debt	(28,503)
Deferred tax liability, net	(4,536)
Fair value of net assets acquired	98,301
Goodwill	3,315
	$ 101,616

The fair value of acquired intangible assets was based on the present value of expected future after tax cash flows attributable to the commercialization of Barhemsys and Byfavo, using the net present value approach. The inventory acquired was valued at expected profit margins for the acquired products. The fair value of working capital acquired approximates its book value. The fair value of debt acquired was based on the present value of future cash outflows using the net present value approach and applying an interest rate that is considered to be a market participant equivalent rate.

The Company incurred approximately $9.8 million and $11.3 million in acquisition-related expenses, which were included in selling, general and administrative expenses in the condensed consolidated statements of operations for the three and six months ended June 30, 2022. These expenses primarily consist of legal fees and success fees paid to third party advisors. The results of Acacia operations have been included in the condensed consolidated statements of operations beginning on the acquisition date. The acquired business contributed revenues of $0.2 million and net loss of $3.4 million to the Company for the period from June 9, 2022 to June 30, 2022.

The goodwill recorded related to the acquisition is the excess of the fair value of the consideration transferred by the acquirer over the fair value of the net identifiable assets acquired and liabilities assumed at the date of acquisition. The goodwill recorded is not deductible for tax purposes.

Pro Forma Financial Information:

The following table provides unaudited pro forma financial information for the three-month and six-month periods ended June 30, 2022 and 2021 as if the acquisition of Acacia had occurred as of January 1, 2021.

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
Total revenue	$ 74,546	$ 48,417	$ 191,038	$ 89,814
Net income (loss)	$ 2,875	$ (10,156)	$ 36,124	$ (51,304)

These amounts have been calculated after applying our accounting policies.

The pro forma results above include the impact of the following adjustments, as necessary: additional amortization expense relating to assets acquired; interest and other financing costs relating to the acquisition transaction; and the elimination of one-time or nonrecurring items. The one-time or nonrecurring items eliminated were primarily comprised of inventory fair value step-up adjustments; transaction costs, as well as certain Acacia-related share based payment charges and employee compensation expenses.

The pro forma results do not include any anticipated cost savings or other effects of the planned integration of Acacia. Accordingly, the pro forma results above are not necessarily indicative of the results that would have been if the acquisition had occurred on the dates indicated, nor are the pro forma results indicative of results which may occur in the future.

15. Subsequent Event

On August 8, 2022, we and Enalare Therapeutics Inc. (“Enalare”) entered into a Securities Purchase Agreement, pursuant to which we have committed to provide equity investments of up to $55 million in Enalare, subject to the completion of certain development milestones (the “Purchase Agreement”). Concurrently with the execution of the Purchase Agreement, we, Enalare and Enalare’s stockholders entered into a Security Purchase Option Agreement, pursuant to which we were granted an option (the “Purchase Option”) to acquire all of the remaining outstanding shares of Enalare other than those that we already own. The Purchase Option is subject to Enalare’s receipt of communication from the FDA after the completion of the Phase 2 Clinical Trial (as defined in the Purchase Agreement) that can be reasonably interpreted as not precluding Enalare from proceeding to a Phase 3 clinical trial involving a product containing the active ingredient ENA-001.

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

The following information should be read in conjunction with our unaudited consolidated financial statements and the notes thereto included in this Quarterly Report on Form 10-Q, or the Quarterly Report, and the audited financial information and the notes thereto included in our Annual Report on Form 10-K, which was filed with the Securities and Exchange Commission, or the SEC, on March 7, 2022, or our Annual Report. This discussion and analysis contains forward-looking statements that involve significant risks and uncertainties. Our actual results, performance or experience could differ materially from what is indicated by any forward-looking statement due to various important factors, risks and uncertainties, including, but not limited to, those set forth under "Risk Factors" included elsewhere in this Quarterly Report. Such factors may be amplified by the COVID-19 pandemic and its current or its potential impact on our business and the global economy. Unless otherwise indicated or required by context, references throughout to "Eagle," the "Company," "we," "our," or "us" refer to financial information and transactions of Eagle Pharmaceuticals, Inc.

Overview

We are an integrated pharmaceutical company focused on finding ways to help medicines do more for patients. Along with our collaborators, we have the capabilities to take a molecule from preclinical research through regulatory approval and into the marketplace, including development, manufacturing and commercialization of our products and product candidates. Our business model applies our scientific expertise, proprietary research-based insights and marketplace proficiency to identify challenging-to-treat diseases of the central nervous system or metabolic critical care therapeutic areas as well as in oncology. By focusing on patients' unmet needs, we strive to provide healthcare professionals with urgently needed treatment solutions that are designed to improve patient care and outcomes and create near- and long-term value for our stakeholders, including patients and healthcare providers and our employees, marketing partners, collaborators and stockholders.

Our science-based business model has a proven track record with the U.S. Food and Drug Administration ("FDA") approval and commercial launches of six products: PEMFEXY® (pemetrexed for injection), vasopressin, an A-rated generic alternative to Vasostrict®, Ryanodex® (dantrolene sodium) ("Ryanodex"), bendamustine ready-to-dilute ("RTD") 500ml solution ("Belrapzo"), and rapidly infused bendamustine RTD ("Bendeka") and RTD ("Treakisym"). We market our products through marketing partners and/or our internal direct sales force. We market PEMFEXY, vasopressin, Ryanodex and Belrapzo, and Teva Pharmaceutical Industries Ltd. ("Teva") markets Bendeka through its subsidiary Cephalon, Inc. SymBio Pharmaceuticals Limited ("SymBio"), markets Treakisym, a RTD product, in Japan.

We acquired Acacia Pharma Group plc ("Acacia") as of June 9, 2022, which added two U.S. Food and Drug Administration ("FDA") approved new chemical entities with patent protection, BARHEMSYS® (amisulpride for injection) and BYFAVO® (remimazolam for injection). The addition of these two products expands our presence in the acute care space, and we believe that our hospital-based salesforce will have success commercializing these assets. Refer to Note 14 for further details.

With several pipeline projects underway and the potential for product launches over the next several years, we believe we have many growth opportunities ahead. We believe that each of our pipeline projects currently has the potential to enter the market as a first-in-class, first-to-file, first-to-market or best-in-class product. In particular, we are applying our expertise to conduct novel research regarding the potential for Ryanodex to address conditions including acute radiation syndrome, traumatic brain injury/concussion and Alzheimer's disease as well as investigations of compounds such as EA-114 (our fulvestrant product candidate) for patients with HR-positive advanced breast cancer. Our clinical development program also includes a license agreement with Combioxin, SA under which the Company was granted exclusive, worldwide development and commercialization rights to CAL02, a novel first-in-class antitoxin agent for Phase 2b/3 development for the treatment of severe pneumonia in combination with traditional antibacterial drugs and a license agreement with AOP Orphan Pharmaceuticals GmbH, a member of the AOP Health Group ("AOP Orphan"), for the commercial rights to its product, landiolol in the United States. Landiolol is a leading hospital emergency use product, which is currently approved in Europe for the treatment of non-compensatory sinus tachycardia and tachycardic supraventricular arrhythmias.

Recent Developments

Enalare Investment

On August 8, 2022, we and Enalare Therapeutics Inc. ("Enalare") entered into a Securities Purchase Agreement, pursuant to which we have committed to provide equity investments of up to $55 million in Enalare, subject to the completion of certain development milestones (the "Purchase Agreement"). Concurrently with the execution of the Purchase Agreement, we, Enalare and Enalare's stockholders entered into a Security Purchase Option Agreement, pursuant to which we were granted an option (the "Purchase Option") to acquire all of the remaining outstanding shares of Enalare other than those that we already own. The Purchase Option is subject to Enalare's receipt of communication from the FDA after the completion of the Phase 2 Clinical Trial (as defined in the Purchase Agreement) that can be reasonably interpreted as not precluding Enalare from proceeding to a Phase 3 clinical trial involving a product containing the active ingredient ENA-001.

Acacia Acquisition

On June 9, 2022, we completed the acquisition of Acacia Pharma Group plc ("Acacia"), formerly a public company organized under the laws of England and Wales. The acquisition added two FDA approved currently marketed, acute care, hospital products, both of which are new chemical entities with strong patent protection:

- BARHEMSYS (amisulpride for injection), the first and only antiemetic approved by the FDA for rescue treatment of postoperative nausea and vomiting, and
- BYFAVO (remimazolam for injection), indicated for the induction and maintenance of procedural sedation in adults undergoing procedures lasting 30 minutes or less.

Landiolol

On June 1, 2022, we announced that AOP Orphan, with whom we entered into a licensing agreement in August 2021, submitted an NDA to the FDA for landiolol, a short-acting, intravenous (“IV”), cardio-selective beta-1 adrenergic blocker. The submission seeks approval for landiolol for the short-term reduction of ventricular rate in patients with supraventricular tachycardia (“SVT”), including atrial fibrillation and atrial flutter. The FDA’s decision with respect to approval is expected in mid-2023, and enrollment of study of pediatric patients with supraventricular tachycardia is underway in Europe.

PEMFEXY

On February 1, 2022, we announced the commercial availability of our novel product PEMFEXY™ (pemetrexed for injection). A branded alternative to ALIMTA®, Eagle's PEMFEXY is a ready-to-use liquid with a unique J-code approved to treat nonsquamous non-small cell lung cancer and mesothelioma.

In February 2020, Eagle received final approval from the FDAof its New Drug Application ("NDA") for PEMFEXY, following the settlement agreement of patent litigation with Eli Lilly and Company (NYSE: LLY) in December 2019. The agreement provided for a release of all claims by the parties and allows for an initial entry of PEMFEXY into the market (equivalent to approximately a three-week supply of current ALIMTA utilization) on February 1, 2022 and a subsequent uncapped entry on April 1, 2022.

Vasopressin

On January 18, 2022, we announced the commercial availability of our recently approved product, vasopressin, an A-rated generic alternative to Vasostrict®, with 180 days of marketing exclusivity.

On December 15, 2021, the FDA approved Eagle's abbreviated new drug application ("ANDA") for vasopressin, a product that is indicated for use to increase blood pressure in adults with vasodilatory shock (e.g., post-cardiotomy or sepsis) who remain hypotensive despite fluids and catecholamines.

TREAKISYM

Eagle's bendamustine franchise continues to grow, including the launch of the TREAKISYM ready-todilute ("RTD") formulation in Japan in the first quarter of 2021. Together with a potential approval of the rapid infusion ("RI") (50ml) liquid formulation.

Fulvestrant

Based on discussions with the FDA, we reformulated and plan to commence human pilot studies of our fulvestrant product candidate for the treatment of HR+/HER- advanced breast cancer shortly.

CAL02

We are preparing to begin clinical trials for CAL02, a novel approach to the treatment of severe bacterial pneumonia, later in 2022.

We expect to start a phase 2b/3 clinical trial for CAL02 patients in the third quarter of 2022, during pneumonia season. In August 2021, we entered into a license agreement with Combioxin, SA under which we were granted exclusive, worldwide. development and commercialization rights to CAL02, a novel approach to the treatment of severe bacterial pneumonia.

Bendeka Settlement

On April 19, 2022, we entered into a definitive settlement agreement, or the Settlement Agreement, with Hospira, Inc., or Hospira, relating to our product BENDEKA® (rapidly infused bendamustine hydrochloride). This settlement resolves patent litigation brought by us and our marketing partners Teva Pharmaceuticals International, GmbH and Cephalon, Inc. relating to the alleged infringement of Orange Book listed United States Patent Nos. 11,103,483 and 9,572,887, or the Asserted Patents, with respect to Hospira’s 505(b)(2) NDA, No. 211530. Pursuant to the terms of the Settlement Agreement, we will grant Hospira a license to market Hospira’s product made under NDA No. 211530 in the United States beginning on January 17, 2028 (subject to FDA approval), or earlier under certain circumstances. Additionally, in accordance with the Agreement, the parties will terminate all ongoing litigation among us, Teva Pharmaceuticals International, GmbH and Cephalon, Inc. and Hospira regarding the Asserted Patents pending in the United States District Court for the District of Delaware. The Agreement is confidential and subject to review by the U.S. Federal Trade Commission and the U.S. Department of Justice.

COVID-19 Business Update

In response to the ongoing COVID-19 pandemic, we have taken and continue to take active measures designed to address and mitigate the impact of the COVID-19 pandemic on its business, such as remote working policies, facilitating management's daily communication to address employee and business concerns and providing frequent updates to the Board. While we have experienced variable financial impacts to date, the ongoing COVID-19 pandemic, including the global economic slowdown, government measures taken in response thereto, the overall disruption of global healthcare systems and other risks and uncertainties associated with the pandemic, could materially adversely affect our business, financial condition, results of operations and growth prospects. We continue to closely monitor the COVID-19 pandemic as we evaluate and evolve our business plans and response strategy. The impact of the COVID-19 pandemic on our business and financial condition is more fully described below in *Trends and Uncertainties*.

Other Business Update

In addition, the U.S. government and other nations have imposed significant restrictions on most companies' ability to do business in Russia as a result of the ongoing military conflict between Russia and Ukraine. It is not possible to predict the broader or longer-term consequences of this conflict, which could include further sanctions, embargoes, regional instability, geopolitical shifts and adverse effects on macroeconomic conditions, security conditions, currency exchange rates and financial markets. Such geopolitical instability and uncertainty could have a negative impact on our ability to further expand our business and to otherwise generate revenues and develop our product candidates. In addition, a significant escalation or expansion of economic disruption or the conflict's current scope could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

Financial Operations Overview

Revenue

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

Product Sales. Through June 30, 2022, we have recognized revenues from product sales including Pemfexy, vasopressin, Ryanodex, Belrapzo, Bendeka, Treakisym, BARHEMSYS and BYFAVO. Sales of Bendeka and Treakisym were made to our commercial partners, Teva and SymBio, respectively. Sales to our commercial partners are typically made at little or no profit for resale. Pemfexy, vasopressin, Ryanodex Belrapzo, BARHEMSYS and BYFAVO were 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 provide 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 Symbio's net sales of Treakisym, 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 for which 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 Teva, net of any sales reserves; and
- the level of orders submitted by wholesalers, hospitals and surgery centers.

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

- the level of orders submitted by our commercial partner, SymBio;
- the level of institutional demand for Treakisym; and
- unit sales prices charged by SymBio, net of any sales reserves.

The primary factors that may determine our revenues derived from Pemfexy, vasopressin, Ryanodex, Belrapzo, BARHEMSYS, BYFAVO 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 expenses 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.

Selling, General and Administrative

Selling, general and administrative costs consist of employee-related costs including salaries, benefits and other related costs, 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 Accounting Standards Codification Topic 740 - Income Taxes, or 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 (loss) 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 it 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.

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, 2022 reflects 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, 2021 reflects the impact of a valuation allowance established and adjusted for the fair value adjustments on our investment in Tyme, certain non-deductible executive compensation and changes in state filing positions, partially offset by credits for research and development activity.

Results of Operations

Comparison of Three Months Ended June 30, 2022 and 2021

Revenues

	Three Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Product sales, net	$ 49,201	$ 19,621	$ 29,580
Royalty revenue	24,935	28,503	(3,568)
Total revenue	$ 74,136	$ 48,124	$ 26,012

Our product sales increased $29.6 million during the three months ended June 30, 2022 as compared to the three months ended June 30, 2021.The increase was primarily attributable to product sales of $16.5 million for Pemfexy and $11.3 million for vasopressin during the during the three months ended June 30, 2022, which launched in the first quarter of 2022. We also had higher product sales for Ryanodex, Bendeka, and Belrapzo of $0.9 million, $0.6 million and $0.5 million, respectively, primarily due to volume increases, partially offset by lower sales of Treakisym of $0.4 million.

Our royalty revenue decreased $3.6 million during the three months ended June 30, 2022 as compared to the three months ended June 30, 2021, primarily as a result of a decrease in royalty revenue from our share of Teva's Bendeka sales.

Cost of revenue

	Three Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Cost of product sales	$ 21,171	$ 7,907	$ 13,264
Cost of royalty revenue	2,493	2,850	(357)
Total cost of revenue	$ 23,664	$ 10,757	$ 12,907

Our cost of product sales increased by $13.3 million during the three months ended June 30, 2022 as compared to the three months ended June 30, 2021. This was primarily attributable to the product sales of Pemfexy and vasopressin, which combined for cost of sales of $11.6 million, due to the product launches in 2022. There were also increases of $0.6 million in Bendeka and $0.3 million in Belrapzo cost of product sales resulting from higher unit sales. These increases were partially offset by a decrease of $0.3 million in Treakisym cost of revenue resulting from lower unit sales.

Our cost of royalty revenue decreased by $0.4 million during the three months ended June 30, 2022 as compared to the three months ended June 30, 2021. This was primarily attributable to costs related to the royalty revenue for Bendeka.

Research and development

The table below details the Company's research and development expenses by significant project for the periods presented.

	Three Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Fulvestrant "EGL-5385-C-1701"	$ 6,298	$ 820	$ 5,478
Vasopressin	(604)	2,351	(2,955)
Ryanodex related projects	73	1,535	(1,462)
CAL02 / Combioxin	2,416	—	2,416
Landilol / AOP	39	—	39
Pemfexy	(59)	579	(638)
All other projects	249	1,073	(824)
Salary and other personnel related costs	3,025	3,553	(528)
Research and development	$ 11,437	$ 9,911	$ 1,526

Our research and development expenses increased $1.5 million in the three months ended June 30, 2022 as compared to the three months ended June 30, 2021. The increase was primarily due to higher spend on fulvestrant projects of $5.5 million and CAL02 projects of $2.4 million partially offset by the non-recurrence of development costs on vasopressin and Pemfexy of $3.6 million and lower spend on Ryanodex related projects of $1.5 million and other projects of $0.9 million.

Selling, general and administrative

	Three Months Ended June 30,		Increase
	2022	2021	
	(in thousands)		
Selling, general and administrative	$ 36,832	$ 16,636	$ 20,196

Our selling, general and administrative expenses increased $20.2 million for the three months ended June 30, 2022 as compared to the three months ended June 30, 2021. This increase is primarily related to $9.8 million of Acacia acquisition related costs, $7.7 million of severance related to the integration of Acacia, $2.6 million of external legal costs, and $0.9 million of sales and marketing costs for PEMFEXY.

Other expense, net

	Three Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Interest income	$ 244	$ 163	$ 81
Interest expense	(552)	(422)	(130)
Other expense	(7,763)	(5,013)	(2,750)
Total other expense, net	$ (8,071)	$ (5,272)	$ (2,799)

Our interest income increased by $0.1 million for the three months ended June 30, 2022 as compared to the three months ended June 30, 2021. This increase is primarily due to higher interest rates on money market funds.

Our interest expense increased by $0.1 million for the three months ended June 30, 2022 as compared to the three months ended June 30, 2021. This increase is due slightly higher interest rates in 2022 for our higher level of outstanding debt during the three months ended June 30, 2022.

Our other expense was a net expense of $7.8 million for the three months ended June 30, 2022 as compared to a net expense of $5.0 million for the three months ended June 30, 2021. The change was primarily due to $5.5 million loss related to forward contracts settled during the period, $0.7 million loss related to fair value adjustments on an outstanding forward contract, $0.8 million loss related to foreign exchange, partially offset by $4.5 million gain related to fair value adjustments on our investment in Tyme during the three months ended June 30, 2022.

Income tax provision

	Three Months Ended June 30,	
	2022	2021
	(in thousands)	
Provision for income taxes	$ (3,582)	$ (1,936)
Effective tax rate	(61)%	35 %

The effective tax rate for the three months ended June 30, 2022, reflects an interim tax provision resulting from the impact of certain non-deductible executive compensation and the impact of certain non-deductible costs from the acquisition of Acacia. The effective tax rate for the three months ended June 30, 2021 reflects the impact of a valuation allowance established and adjusted for the fair value adjustments on our investment in Tyme, certain non-deductible executive compensation, partially offset by credits for research and development activity.

Comparison of Six Months Ended June 30, 2022 and 2021
Revenues

	Six Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Product sales, net	$ 139,289	$ 36,741	$ 102,548
Royalty revenue	50,721	52,632	(1,911)
Total revenue	$ 190,010	$ 89,373	$ 100,637

Our product sales increased $102.5 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021. The increase was primarily attributable to product sales of Pemfexy and vasopressin, which each launched in the first quarter of 2022, which combined for $99.4 million of product sales, net. We also had higher product sales of Bendeka of $1.5 million, Belrapzo of $0.8 million, each due to unit volume, and Ryanodex $0.7 million due to price increases.

Our royalty revenue decreased $1.9 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021, primarily as a result of lower royalties on Teva's sales of Bendeka of $4.8 million, which were partially offset by royalties on Symbio's sales of Treakisym of $2.9 million.

Cost of revenue

	Six Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Cost of product sales	$ 46,347	$ 16,349	$ 29,998
Cost of royalty revenue	5,072	5,263	(191)
Total cost of revenue	$ 51,419	$ 21,612	$ 29,807

Our cost of product sales increased $30.0 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021. This was primarily attributable to the product launches of Pemfexy and vasopressin in 2022, which combined for cost of sales of $27.1 million in the six months ended June 30, 2022, as well as increases of $1.6 million for Bendeka and $0.5 million for Belrapzo, each related to higher unit sales. These increases were partially offset by a decrease of $0.7 million in Ryanodex cost of product sales resulting from lower unit sales.

Our cost of royalty revenue decreased $0.2 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021, primarily as a result of a decrease in royalty revenue on Teva's sales of Bendeka. Partially offset by higher cost of royalty associated with Treakisym.

Research and development

	Six Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Fulvestrant "EGL-5385-C-1701"	$ 6,919	$ 4,478	$ 2,441
Vasopressin	(604)	5,211	(5,815)
Ryanodex related projects	431	3,746	(3,315)
CAL02 / Combioxin	3,386	—	3,386
Landilol / AOP	153	—	153
Pemfexy	(56)	1,116	(1,172)
All other projects	737	1,917	(1,180)
Salary and other personnel related costs	6,579	7,731	(1,152)
Research and development	$ 17,545	$ 24,199	$ (6,654)

Our research and development expenses decreased $6.7 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021. The decrease primarily resulted from non-recurrence of development costs of $5.8 million for vasopressin, $3.3 million for Ryanodex related projects, $1.2 million related to Pemfexy and $0.9 million total decrease in salaries, bonus, severance, included with salary and other personnel related costs. Partially offset by increase of $3.4 million in the CAL02 project and $2.4 million in the fulvestrant project.

Selling, general and administrative

	Six Months Ended June 30,		Increase
	2022	2021	
	(in thousands)		
Selling, general and administrative	$ 59,014	$ 36,515	$ 22,499

Our selling, general and administrative expenses increased $22.5 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021. The increase is primarily related to $11.3 million of Acacia acquisition related costs, $7.1 million of severance related to the integration of Acacia, $4.2 million of external legal costs and $1.6 million of sales and marketing costs for PEMFEXY, partially offset by a decrease in stock compensation expense of $2.0 million.

Other expense, net

	Six Months Ended June 30,		Increase / (Decrease)
	2022	2021	
	(in thousands)		
Interest income	$ 398	$ 198	$ 200
Interest expense	(918)	(844)	74
Other (expense) income	(9,720)	487	(10,207)
Total other expense, net	$ (10,240)	$ (159)	$ (10,081)

Our interest income increased $0.2 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021. This increase was primarily due to higher interest rates on money market funds as compared to the six months ended June 30, 2021.

Our interest expense increased $0.1 million in the six months ended June 30, 2022 as compared to the six months ended June 30, 2021. This increase was due to slightly higher interest rates in 2022 for our outstanding debt during the six months ended June 30, 2022.

Our other (expense) income was a net expense amount of $9.7 million for the six months ended June 30, 2022 as compared to an income amount of $0.5 million for the six months ended June 30, 2021. The change was primarily due to a $4.9 million loss related to forward contracts settled during the period, $0.7 million loss related to fair value adjustments on an outstanding forward contract, $0.8 million loss related to foreign exchange, and $3.6 million loss related to fair value adjustments on our investment in Tyme during the six months ended June 30, 2022.

Income tax provision

	Six Months Ended June 30,	
	2022	2021
	(in thousands)	
Provision for income taxes	$ (17,184)	$ (3,697)
Effective tax rate	33 %	54 %

The effective tax rate for the six months ended June 30, 2022, reflects an interim tax provision resulting from impact of certain non-deductible executive compensation and the impact of certain non-deductible costs from the acquisition of Acacia, partially offset by credits for research and development activity.

Liquidity and Capital Resources

Our principal sources of liquidity are our cash and cash equivalents, cash flows from operations and availability of borrowing

under our revolving credit facility. Our primary uses of cash are to fund working capital requirements, including repayment of debt, product development costs and operating expenses. We may also use cash for business acquisitions or other strategic transactions, such as in our acquisition of Acacia. Cash and cash equivalents were $36.6 million and $108.7 million as of June 30, 2022 and June 30, 2021, respectively.

For the six months ended June 30, 2022, we generated net income of $34.6 million. As of June 30, 2022, our working capital surplus was $85.5 million. For the six months ended June 30, 2021, we generated net income of $3.2 million.

We believe that our cash and cash equivalents and future cash flows from operations will be sufficient to fund our currently anticipated working capital requirements for at least the next 12 months. We believe we will be able to meet our expected future cash and working capital requirements through a combination of cash flows from operations, cash and cash equivalents, availability of borrowings under our revolving credit facility and additional funding in the capital markets, if needed. We have based this estimate on assumptions that may prove to be wrong.

We may opportunistically seek access to additional capital to fund potential licenses, acquisitions or investments to expand our operations or for general corporate purposes. Raising additional capital could be accomplished through one or more public or private debt or equity financings, collaborations or partnering arrangements. As a result of the COVID-19 pandemic, as well as the ongoing military conflict between Russia and Ukraine and the related sanctions imposed against Russia and countermeasures related thereto in addition to macroeconomic conditions including rising inflation, the global credit and financial markets have experienced significant volatility and disruption. If these market conditions persist and deepen, we could experience an inability to access additional capital or our liquidity could otherwise be impacted, which could in the future negatively affect our capacity for certain corporate development transactions or our ability to make other important, opportunistic investments or acquisitions. An inability to borrow or raise additional capital in a timely manner and on attractive terms could prevent us from expanding our business or taking advantage of acquisition opportunities, and could otherwise have a material adverse effect on our business and growth prospects. In addition, if we use a substantial amount of our funds for any such potential acquisition or investment activities, we may not have sufficient additional funds to conduct all of our operations in the manner we would otherwise choose. Furthermore, any equity financing would be dilutive to our shareholders, and any financing could require the consent of the lenders under our credit facility.

The COVID-19 pandemic has disrupted and continues to disrupt the U.S. healthcare system, global economies and global capital markets. There are significant uncertainties surrounding the full extent and duration of the impact of the COVID-19

pandemic, geopolitical and macroeconomic conditions on our business and operations. We have experienced variable financial impacts to date, as a result of the COVID-19 pandemic and the ongoing pandemic could have a material adverse impact on our financial condition and results of operations in the future, including our ability to obtain financing when and if needed. The impact of COVID-19 on our business and financial condition is more fully described below in *Trends and Uncertainties.*

Operating Activities:

Net cash used in operating activities for the six months ended June 30, 2022 was $26.4 million. Net income for the period was $34.6 million enhanced by the net of non-cash adjustments of approximately $12.8 million from deferred income taxes, depreciation expense, amortization expense of right-of-use assets, amortization expense of intangible assets, fair value adjustments on equity investment, stock-based compensation expense, amortization of debt issuance costs, foreign exchange gains and losses, and other items. Net changes in working capital decreased cash from operating activities by approximately $21.0 million, due to changes in working capital accounts. The total amount of accounts receivable at June 30, 2022 was approximately $85.9 million, which included $61.0 million related to product sales and $24.9 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:

Net cash used in investing activities for the six months ended June 30, 2022 was $75.6 million, primarily as a result of our acquisition of Acacia coupled with $0.2 million for purchases of property and equipment.

Financing Activities:

Net cash used in financing activities for the six months ended June 30, 2022 was $11.9 million, as a result of $4 million of principal payments for debt required by our Second Amended and Restated Credit Agreement with JPMorgan Chase Bank, N.A., as administrative agent and the lenders party thereto, or the Credit Agreement, $8.1 million in payments related to the repurchases of our common stock, $1.3 million of payments associated with employee withholding tax upon vesting of stock-based awards, offset by $1.5 million in proceeds received from the exercise of employee stock options.

Trends and Uncertainties

During the three and six months ended June 30, 2022, we have experienced a variable impact on our business and financial condition due to the COVID-19 pandemic. We also incurred an insignificant amount of incremental administrative costs related to the COVID-19 pandemic. The COVID-19 pandemic, including containment and mitigation measures, has impacted, and is expected to continue to impact, our business and operations in a number of ways, including:

- *Day-to-Day Operations*: During the second quarter of 2021, we developed and implemented plans to resume in-person work practices while adhering to relevant health authority guidance, for certain of our employees, including customer-facing employees, that had been primarily working remotely. We may incur additional expenses in 2022 related to the impact of the COVID-19 pandemic on our operations, including updates to our facilities to align with safety protocols.
- *Manufacturing and Supply Chain:* We are working closely with our commercial partners and third-party manufacturers to mitigate potential disruptions as a result of the COVID-19 pandemic by continuing to monitor the supply and availability of Bendeka, Ryanodex, and Belrapzo, Treskysim, Pemfexy, vasopressin, Barhemsys, and Byfavo for the patients who rely on these products. We anticipate that the COVID-19 pandemic will continue to delay our supply chain and marketing and sales efforts for certain of our products, including Bendeka, although it is not currently expected that any disruption would be material. If the COVID-19 pandemic continues to persist for an extended period of time and impacts essential distribution systems such as FedEx and postal delivery, we could experience future disruptions to our supply chain and operations, and associated delays in the manufacturing and our clinical supply, which would adversely impact our development activities.
- *Marketing and Sale of Products*: In addition to the impact on our product revenues resulting in a decrease in sales from Belrapzo, driven, in part, by the COVID-19 pandemic, we have also observed a reduction in the number of Bendeka patients visiting infusion centers, hospitals and clinics for intravenous administration of Bendeka due to interruptions in healthcare services, and the patients' inability to visit administration sites as well as desire to avoid contact with infected individuals. In addition, our sales and marketing teams have been working remotely and our virtual initiatives with respect to marketing and supporting the sale and administration of our products have not been as effective as our in-person sales and marketing activities.

- *Liquidity and Capital Resources*: We believe that our future cash and cash equivalents and availability of borrowings under our Credit Agreement flows from operations will be sufficient to fund our currently anticipated working capital requirements for the next 12 months. We have based this estimate on assumptions that may prove to be wrong While the COVID-19 pandemic has not had, and we do not expect it to have, a material adverse effect on our liquidity, the situation continues to evolve and has already resulted in a significant disruption of global financial markets. If the disruption persists or deepens, we could experience an inability to access additional capital when and if needed. If we are unable to obtain funding, we could be forced to delay, reduce or eliminate distribution of our commercialized products, product portfolio expansion or some or all of our research and development programs, which would adversely affect our business prospects. We expect to be able to obtain future funding under the terms of the Credit Agreement, for general corporate purposes and any strategic acquisitions.
- *Regulatory Activities*: We may experience further delays in the review and/or our interactions with FDA due to, for example, absenteeism by governmental employees, inability to conduct planned physical inspections related to regulatory approval, or the diversion of FDA's efforts and attention to approval of other therapeutics or other activities related to the COVID-19 pandemic, which could further delay approval decisions with respect to regulatory submissions or obtain new product approvals.
- *Clinical Development Timelines:* The clinical trial timelines for certain of our product candidates have been delayed given difficulties with limited patient enrollment resulting from the impact of the COVID-19 pandemic, and we expect that our clinical trial timelines will continue to be impacted for the duration of the pandemic.

There are significant uncertainties surrounding the extent and duration of the impact of the COVID-19 pandemic on our business and operations. We continue to evaluate the impact of the COVID-19 pandemic on our operating results and financial condition. The COVID-19 pandemic has had a variable impact on our results of operations during the three and six months ended June 30, 2022 and, it could have a material adverse impact on our financial condition and results of operations in the future.

In addition, the U.S. government and other nations have imposed significant restrictions on most companies' ability to do business in Russia as a result of the ongoing military conflict between Russia and Ukraine. It is not possible to predict the broader or longer-term consequences of this conflict, which could include further sanctions, embargoes, regional instability, geopolitical shifts and adverse effects on macroeconomic conditions, security conditions, currency exchange rates and financial markets. Such geopolitical instability and uncertainty could have a negative impact on our ability to further expand our business and to otherwise generate revenues and develop our product candidates. In addition, a significant escalation or expansion of economic disruption or the conflict's current scope could have a material adverse effect on our business, financial condition, results of operations and growth prospects.

Contractual Obligations

Other than as set forth below, there have been no material changes to our contractual and commercial obligations during the six months ended June 30, 2022, as compared to the obligations disclosed in our Annual Report.

Our future material contractual obligations included the following as of June 30, 2022 (in thousands):

Obligations	Total	2022	2023	2024	2025	Beyond
Operating leases (1)	$ 4,033	$ 827	$ 1,671	$ 1,122	$ 413	$ —
Credit facility and Term Loans (2)	48,118	22,000	4,571	13,059	8,488	—
Purchase obligations (3)	74,097	74,097	—	—	—	—
Total obligations	$ 126,248	$ 96,924	$ 6,242	$ 14,181	$ 8,901	$ —

(1) We lease our corporate office location. On August 8, 2019, we amended the lease for our corporate office location in order to rent additional office space and extend the term of our existing lease to June 30, 2025. We also lease lab space under a lease agreement that expires on April 1, 2024, office space located in Indianapolis, Indiana through November 2023, and an office space located in Palm Beach Gardens, Florida, through October 31, 2024.

(2) Refer to Note 9. Debt for details of our Credit Agreement and Term Loans.

(3) As of June 30, 2022, we had purchase obligations in the amount of $74.1 million 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.

Critical Accounting Policies and Estimates

Our significant accounting policies and estimates are disclosed in "Note 2. Summary of Significant Accounting Policies" in our audited financial statements for the year ended December 31, 2021 included in our Annual Report. Since the date of such financial statements, there have been no changes to our significant accounting policies and estimates other than those described in Note 2 of the notes to our unaudited condensed consolidated financial statements included elsewhere in this Quarterly Report.

Recent Accounting Pronouncements

In March 2020, the FASB issued *Update 2020-04 Reference Rate Reform (Topic 848), Facilitation of the Effects of Reference Rate Reform on Financial Reporting* to provide temporary optional guidance to ease the potential burden in accounting for reference rate reform. The amendments in Update 2020-04 are elective and apply to all entities that have contracts, hedging relationships, and other transactions that reference LIBOR, formerly known as the London Interbank Offered Rate,
or another reference rate expected to be discontinued due to reference rate reform. The new guidance provides optional expedients, including; (1) Simplify accounting analyses under current GAAP for contract modifications, such as modifications of contracts within the scope of Topic 470, Debt, that will be accounted for by prospectively adjusting the effective interest rate, as if any modification was not substantial. That is, the original contract and the new contract shall be accounted for as if they were not substantially different from one another; (2) Simplify the assessment of hedge effectiveness and allow hedging relationships affected by reference rate reform to continue; (3) Allow a one-time election to sell or transfer debt securities classified as held to maturity before January 1, 2020 that reference a rate affected by reference rate reform. The amendments are effective for all entities from the beginning of an interim period that includes the issuance date of the ASU. An entity may elect to apply the amendments prospectively through December 31, 2022. The adoption of ASU 2020-4 is not expected to have a material impact on our financial position or results of operations.

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires an acquirer to recognize and measure contract assets and liabilities acquired in a business combination in accordance with Revenue from Contracts with Customers (Topic 606) rather than adjust them to fair value at the acquisition date. This accounting standard update will be effective for public business entities in fiscal years beginning after December 15, 2022, including interim periods within those fiscal years; therefore for us beginning in the first quarter of 2023. We are currently evaluating the impact of this accounting standard, but do not expect it to have a material impact on our condensed consolidated financial statements.

In March 2022, the FASB issued ASU 2022-01, *Derivatives and Hedging (Topic 801): Fair Value Hedging – Portfolio Layer Method*, which expands the current single-layer hedging model to allow multiple-layer hedges of a single closed portfolio of prepayable financial assets or one or more beneficial interests secured by a portfolio of prepayable financial instruments under the method. This accounting standards update will be effective for public business entities in fiscal years beginning after December 15, 2022, including interim periods within those fiscal years; therefore for us beginning in the first quarter of 2023. We are currently evaluating the impact of this accounting standard, but do not expect it to have a material impact on our condensed consolidated financial statements.

There are other new accounting pronouncements issued by the FASB that we have adopted or will adopt, as applicable. We do not believe any of these accounting pronouncements have had, or will have, a material impact on our condensed consolidated financial statements or disclosures.

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, 2022, 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, except as discussed below.

We are monitoring the ongoing impacts of the COVID-19 pandemic on our business. While the full extent of the economic impact brought by, and the duration of, the COVID-19 pandemic is difficult to assess or predict, the impact on the global financial markets may reduce our ability to access capital, which could negatively impact our long-term liquidity.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain "disclosure controls and procedures," as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or 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. Management recognizes 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, 2022, our Chief Executive Officer and our Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

On June 9, 2022, Eagle completed the acquisition of Acacia. Eagle has extended its oversight and monitoring processes that support our internal control over financial reporting, as well as its disclosure controls and procedures, to include Acacia's operations. Eagle is continuing to integrate the acquired operations of Acacia. There were no other changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter ended June 30, 2022 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 11. Legal Proceedings in the Condensed Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report are incorporated into this Part II, Item 1 by reference.

Item 1A. Risk Factors

An investment in our securities involves a high degree of risk. Our business is subject to risks and events that, if they occur, could adversely affect our financial condition and results of operations and the trading price of our securities. For a discussion of our risk factors, please see "Part I, Item 1A. Risk Factors" of our Annual Report in addition to our updated risk factors set forth below.

We may fail to realize all of the anticipated benefits of the Acacia acquisition, those benefits may take longer to realize than expected, or we may encounter integration difficulties.

Our ability to realize the anticipated benefits of our Acacia acquisition will depend, to a large extent, on our ability to integrate Acacia Pharma and BARHEMSYS and BYFAVO, into our business and realize anticipated growth opportunities and synergies. We will need to devote significant management attention and resources to integrating these products into our business. The process may be disruptive to our business and the expected benefits may not be achieved within the anticipated time frame, or at all. The failure to meet the challenges involved and to realize the anticipated benefits of the transaction could adversely affect our business, financial condition and results of operations.

Our ability to realize the anticipated benefits of the transaction is expected to entail numerous material potential difficulties, including, among others:

- the diversion of management attention to integration matters;
- difficulties in achieving anticipated business opportunities and growth prospects from the acquisition;
- difficulties in assimilating employees; and
- potential unknown liabilities, adverse consequences, unforeseen increased expenses or other unanticipated problems associated with the transaction.

Many of these factors are outside of our control, and any one of them could result in increased costs, decreased expected revenues and further diversion of management time and energy, which could materially impact our business, financial condition and results of operations.

In addition, we now possess not only the rights to BARHEMSYS and BYFAVO, but also certain corresponding liabilities and obligations, including the contractual liabilities and regulatory obligations that we have assumed upon closing of the transaction, including certain post-marketing commitments. Failure to satisfy any such requirements could delay our realization of, or prevent us from ever realizing, the anticipated benefits from the transaction. Further, it is possible that undisclosed, contingent, or other liabilities or problems may arise in the future of which we were previously unaware. These undisclosed liabilities could have an adverse effect on our business, financial condition and results of operations.

All of these factors could decrease or delay the expected accretive effect of the transaction and negatively impact our stock price. As a result, it cannot be assured that our Acacia acquisition will result in the full realization of the benefits anticipated from the transaction within the anticipated time frames or at all.

We may engage in strategic transactions to acquire assets, businesses, or rights to products, product candidates or technologies or form collaborations or make investments in other companies or technologies that could harm our operating results, dilute our stockholders' ownership, increase our debt, or cause us to incur significant expense.

As part of our business strategy, we may engage in additional strategic transactions to expand and diversify our product pipeline, including through the acquisition of assets, businesses, or rights to products, product candidates or technologies or through strategic alliances or collaborations, similar to our Acacia acquisition. We may not identify suitable strategic transactions, or complete such transactions in a timely manner, on a cost-effective basis, or at all. Moreover, we may devote resources to potential opportunities that are never completed or we may incorrectly judge the value or worth of such opportunities. Even if we successfully execute a strategic transaction, we may not be able to realize the anticipated benefits of such transaction, may incur additional debt or assume unknown or contingent liabilities in connection therewith, and may

experience losses related to our investments in such transactions. Integration of an acquired company or assets into our existing business may not be successful and may disrupt ongoing operations, require the hiring of additional personnel and the implementation of additional internal systems and infrastructure, and require management resources that would otherwise focus on developing our existing business. Even if we are able to achieve the long-term benefits of a strategic transaction, our expenses and short-term costs may increase materially and adversely affect our liquidity. Any of the foregoing could have a detrimental effect on our business, results of operations and financial condition.

In addition, potential future strategic transactions may entail numerous operational, financial and legal risks, including:

- incurrence of substantial debt, dilutive issuances of securities or depletion of cash to pay for acquisitions;
- exposure to known and unknown liabilities, including possible intellectual property infringement claims, violations of laws, tax liabilities and commercial disputes;
- higher than expected acquisition and integration costs;
- difficulty in integrating operations and personnel of any acquired business;
- increased amortization expenses or, in the event that we write-down the value of acquired assets, impairment losses;
- impairment of relationships with key suppliers or customers of any acquired business due to changes in management and ownership;
- inability to retain personnel, customers, distributors, vendors and other business partners integral to an in-licensed or acquired product, product candidate or technology;
- potential failure of the due diligence processes to identify significant problems, liabilities or other shortcomings or challenges;
- entry into indications or markets in which we have no or limited direct prior development or commercial experience and where competitors in such markets have stronger market positions; and
- other challenges associated with managing an increasingly diversified business.

If we are unable to successfully manage any strategic transaction in which we may engage, our ability to develop and commercialize new products and continue to expand and diversify our product pipeline may be limited.

Future issuances of our common stock or rights to purchase our common stock, including in connection with potential business development transactions we may determine to pursue and/or pursuant to our equity incentive plans, could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to fall.

Sales of a substantial number of shares of our common stock in the public market could occur at any time. These sales, or the perception in the market that the holders of a large number of shares intend to sell shares, could reduce the market price of our common stock.

We expect that significant additional capital will be needed in the future to continue our planned operations and/or in connection with potential business development transactions we may determine to pursue. For example, in June 2022, we completed our Acacia acquisition, pursuant to which Acacia Pharma shareholders received €0.68 in cash and 0.0049 shares of our common stock for each Acacia Pharma share. To the extent we raise additional capital or pursue potential business development transactions by issuing equity securities, our stockholders may experience substantial dilution. We currently have on file with the SEC a shelf registration statement, which allows us to offer and sell certain registered securities, such as common stock, preferred stock, debt securities and warrants, from time to time pursuant to one or more offerings at prices and terms to be determined at the time of sale. We may sell common stock, convertible securities or other equity or debt securities in one or more transactions at prices and in a manner we determine from time to time. If we sell common stock, convertible securities or other equity or debt securities in more than one transaction, investors may be materially diluted by subsequent sales. These sales may also result in material dilution to our existing stockholders, and new investors could gain rights superior to our existing stockholders.

Pursuant to our 2014 Equity Incentive Plan, or the 2014 Plan, our management is authorized to grant stock options and other equity awards to our employees, directors and consultants. We have issued a significant number of stock options and other equity awards under the 2014 Plan. The shares underlying these awards are registered on a Form S-8 registration statement. As a result, upon vesting these shares can be freely exercised and sold in the public market upon issuance, subject to volume limitations applicable to affiliates. The exercise of options and the subsequent sale of the underlying common stock could cause a decline in our stock price. These sales also might make it difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. In addition, the number of shares available for future grant under the 2014 Plan will automatically increase each year by 6% of all shares of our capital stock outstanding as of December 31 of the prior calendar year, subject to the ability of our board of directors to take action to reduce the size of the increase in any given year. Currently, we plan to register the increased number of shares available for issuance under the 2014 Plan each year. If our board of

directors elects to increase the number of shares available for future grant by the maximum amount each year, our stockholders may experience additional dilution, which could cause our stock price to fall.

Current and future legislation and regulations may increase the difficulty and cost for us to commercialize our product candidates and affect the prices we may obtain for our products.

The United States and some foreign jurisdictions are considering, or have enacted, a number of legislative and regulatory proposals to change the health care system in ways that could affect our ability to sell our products and our product candidates profitably, once they are approved for sale. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in health care systems with the stated goals of containing health care costs, improving quality and/or expanding access. In the United States, the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives.

By way of example, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care Education and Reconciliation Act, or collectively, the ACA, was passed, which significantly changed health care financing by both governmental and private insurers. There have been executive, judicial and Congressional challenges to certain aspects of the ACA. For example, the Trump administration signed several Executive Orders and other directives designed to delay the implementation of certain provisions of the ACA or otherwise circumvent some of the requirements for health insurance mandated by the ACA. Concurrently, Congress considered legislation to repeal or repeal and replace all or part of the ACA. While Congress has not passed comprehensive repeal legislation, several bills affecting the implementation of certain taxes
under the ACA have been signed into law. For example, the Tax Cuts and Jobs Act of 2017, or Tax Act, included a provision which repealed, effective January 1, 2019, the tax-based shared responsibility payment imposed by the ACA on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the "individual mandate". Additionally, the 2020 federal spending package permanently eliminated, effective January 1, 2020, the ACA-mandated "Cadillac" tax on high-cost employer-sponsored health coverage and medical device tax and, effective January 1, 2021, also eliminated the health insurer tax. The Bipartisan Budget Act of 2018, or the BBA, among other things, amended the ACA, effective January 1, 2019, to increase from 50 percent to 70 percent the point-of-sale discount that is owed by pharmaceutical manufacturers who participate in Medicare Part D and to close the coverage gap in most Medicare drug plans, commonly referred to as the "donut hole." On June 17, 2021, the United States Supreme Court dismissed a challenge on procedural grounds that argued the ACA is unconstitutional in its entirety because the "individual mandate" was repealed by Congress. Thus, the ACA will remain in effect in its current form. Moreover, prior to the United States Supreme Court ruling, on January 28, 2021, the current U.S. President issued an executive order that initiated a special enrollment period for purposes of obtaining health insurance coverage through the ACA marketplace, which began on February 15, 2021 and remained open through August 15, 2021. The executive order also instructed certain governmental agencies to review and reconsider their existing policies and rules that limit access to healthcare, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is possible that the ACA will be subject to judicial or Congressional challenges in the future. It is unclear how any such challenges and the healthcare reform measures of the current Presidential administration will impact the ACA and our business. We cannot predict how future federal or state legislative or administrative changes relating to healthcare reform will affect our business.

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. For example, in August 2011, President Obama signed into law the Budget Control Act of 2011, which, among other things, created the Joint Select Committee on Deficit Reduction to recommend proposals for spending reductions to Congress. The Joint Select Committee on Deficit Reduction did not achieve its targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, triggering the legislation's automatic reductions to several government programs. These reductions include aggregate reductions to Medicare payments to providers of up to 2% per fiscal year, which went into effect on April 1, 2013 and, due to subsequent legislative amendments, will remain in effect through 2030 unless additional Congressional action is taken. However, COVID-19 relief legislation suspended the actual reduction in Medicare payments will vary from 1% in 2022 to up to 3% in the final fiscal year of this sequester. On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 into law, which eliminates the statutory Medicaid drug rebate cap, currently set at 100% of a drug's average manufacturer price, for single source and innovator multiple source drugs, beginning January 1, 2024. Additionally, in January 2013, President Obama signed into law the American Taxpayer Relief Act of 2012, which, among other things, further reduced Medicare payments to several providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years.

Further, under the Drug Supply Chain Security Act signed into law on November 27, 2013, certain drug manufacturers will be subject to product identification, tracing and verification requirements, among others, that are designed to improve the detection and removal of counterfeit, stolen, contaminated or otherwise potentially harmful drugs from the U.S. drug supply chain. These requirements will be phased in over several years and compliance with this law will likely increase the costs of the manufacture and distribution of drug products, which could have an adverse effect on our financial condition.

Additionally, there has been increasing legislative and enforcement interest in the United States with respect to drug pricing practices. Specifically, there have been several recent U.S. Congressional inquiries and proposed and adopted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drugs. For example, the former U.S. Presidential administration used several means to propose or implement drug pricing reform, including through federal budget proposals, executive orders and policy initiatives. For example, in May 2019, the Centers for Medicare & Medicaid Services, or CMS, issued a final rule to allow Medicare Advantage Plans the option of using step therapy for Part B drugs beginning on January 1, 2020. The final rule codified a CMS policy change that was effective January 1, 2019. In a final rule issued by CMS on December 31, 2020, CMS established a broader definition for a "line extension" drug such that the line extension of the initial brand name listed drug would not need to be an oral solid dosage form. This final rule, may impact the rebate amounts associated with our products and negatively affect the commercial success of our products. Additionally, on December 2, 2020, CMS published changes to the Medicare Physician Fee Schedule for Calendar Year 2021 that also may adversely impact the coverage and reimbursement of our products. Under the changes, CMS will assign certain 505(b)(2) drug products to existing multiple source drug codes because, according to CMS, some drug products approved under the 505(b)(2) pathway share similar labeling and uses with generic drugs that are assigned to multiple source drug codes. CMS noted that this change is consistent with efforts to "curb drug prices" and encourages competition among products that are described by one billing code and share similar labeling. On July 24, 2020 and September 13, 2020, the former U.S. Presidential administration announced several executive orders related to prescription drug pricing that attempted to implement several of the administration's proposals. As a result, the FDA also released a final rule, effective November 30, 2020, implementing a portion of the importation executive order providing guidance for states to build and submit importation plans for drugs from Canada. Further, on November 20, 2020, the Department of Health and Human Services, or HHS, finalized a regulation removing safe harbor protection for price reductions from pharmaceutical manufacturers to plan sponsors under Part D, either directly or through pharmacy benefit managers, unless the price reduction is required by law. The implementation of the rule has been delayed by the current administration from January 1, 2022 to January 1, 2023 in response to ongoing litigation. The rule also creates a new safe harbor for price reductions reflected at the point-of-sale, as well as a new safe harbor for certain fixed fee arrangements between pharmacy benefit managers and manufacturers, the implementation of which have also been delayed until January 1, 2023. On November 20, 2020, CMS issued an interim final rule implementing the former President's Most Favored Nation executive order, which would tie Medicare Part B payments for certain physician-administered drugs to the lowest price paid in other economically advanced countries, effective January 1, 2021. As a result of litigation challenging the Most Favored Nation model, on August 10, 2021, CMS published a proposed rule that seeks to rescind the Most Favored Nation Model interim final rule. In July 2021, the Biden administration released an executive order, "Promoting Competition in the American Economy," with multiple provisions aimed at prescription drugs. In response to Biden's executive order, on September 9, 2021, HHS released a Comprehensive Plan for Addressing High Drug Prices that outlines principles for drug pricing reform and sets out a variety of potential legislative policies that Congress could pursue as well as potential administrative actions HHS can take to advance these principles. No legislation or administrative actions have been finalized to implement these principles. In addition, Congress is considering drug pricing as part of the budget reconciliation process. At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. Further, it is possible that additional governmental action is taken in response to the COVID-19 pandemic. The full impact of these laws, as well as other new laws and reform measures that may be proposed and adopted in the future remains uncertain, but may result in additional reductions in Medicare and other health care funding, or higher production costs which could have a material adverse effect on our customers and, accordingly, our financial operations.

Our future success depends on our ability to retain key executives and to attract, retain and motivate qualified personnel.

We are highly dependent on the principal members of our executive team, which include our Chief Executive Officer and President, Chief Financial Officer, Chief Medical Officer, and Chief Commercial Officer. We are currently searching for a new Chief Medical Officer, which position is currently vacant. The loss of these executives' services may adversely impact the achievement of our objectives. Any of our executive officers could leave our employment at any time, as all of our employees are "at will" employees. Recruiting and retaining other qualified employees for our business, including scientific and technical personnel, will also be critical to our success. There is currently a shortage of skilled executives in our industry, which is likely to continue. As a result, competition for skilled personnel is intense and the turnover rate can be high. We may not be able to attract and retain personnel on acceptable terms given the competition among numerous pharmaceutical companies for individuals with similar skill sets. In addition, failure to succeed in clinical studies may make it more challenging to recruit and retain qualified personnel. The inability to recruit key executives or the loss of the services of any executive or key employee might impede the progress of our development and commercialization objectives.

We will need to expand our organization, and we may experience difficulties in managing this growth, which could disrupt our operations.

As of June 30, 2022, we had a total of 122 employees in the United States. As our company matures, we expect to expand our employee base to increase our managerial, scientific and engineering, operational, sales, marketing, financial and other resources and to hire more consultants and contractors. Future growth would impose significant additional responsibilities on our management, including the need to identify, recruit, maintain, motivate and integrate additional employees, consultants and contractors. Also, our management may need to divert a disproportionate amount of its attention away from our day-to-day activities and devote a substantial amount of time to managing these growth activities.

We may not be able to effectively manage the expansion of our operations which may result in weaknesses in our infrastructure and give rise to operational mistakes, loss of business opportunities, loss of employees and reduced productivity among remaining employees. Future growth could require significant capital expenditures and may divert financial resources from other projects, such as the development of our existing or future product candidates. If our management is unable to effectively manage our growth, our expenses may increase more than expected, our ability to generate and/or grow revenue could be reduced and we may not be able to implement our business strategy. Our future financial performance and our ability to sell our products and commercialize our product candidates, if approved, and compete effectively will depend, in part, on our ability to effectively manage any future growth

The COVID-19 pandemic has adversely impacted, and may continue to adversely impact, our business, including the marketing, sale and commercialization of our products, our supply chain, our clinical trials, our liquidity and access to capital markets and our business development activities. In addition, our business, financial condition and results of operations have been and may in the future be adversely affected by macroeconomic conditions and by geopolitical events.

The ongoing COVID-19 pandemic has adversely impacted, and may continue to adversely impact, our business. In mid-March 2020, we implemented work-from-home policies which are still in place for the majority of our employees. Our work-from-home policies may negatively impact productivity or disrupt our business, the magnitude of which will continue to depend, in part, on the length of this continued remote working arrangement and other limitations on our ability to conduct our business in the ordinary course. During the second quarter of 2021, we developed and implemented plans to resume in-person work practices while adhering to relevant health authority guidance. The effects of government actions and our policies and those of third parties to reduce the spread and ameliorate the impact of COVID-19 may negatively impact productivity and our ability to market and sell our products, cause disruptions to our supply chain and ongoing and future clinical trials and impair our ability to execute our business development strategy. These and other disruptions in our operations and the global economy could negatively impact our business, operating results and financial condition.

The marketing, sale and commercialization of our products have been adversely impacted and may continue to be adversely impacted by COVID-19 and actions taken to slow its spread and ameliorate its impact. We saw a variable impact on our product revenues in 2020 due to the COVID-19 pandemic and also experienced variable impacts on our business and financial condition as a result of the pandemic. We are expecting the impact on our near-term financial results to continue for the duration of the pandemic. Other parts of our business have been, and continue to be, impacted by the outbreak. For example, patients have postponed and we expect will continue to postpone visits to healthcare provider facilities, certain healthcare providers have temporarily closed their offices or are restricting patient visits, healthcare provider employees may become generally unavailable and there could be disruptions in the operations of payors, distributors, logistics providers and other third parties that are necessary for our products to be prescribed, reimbursed and administered to patients. For example, we have continued to observe a reduction in the number of Bendeka patients visiting infusion centers, hospitals and clinics for intravenous administration of Bendeka due to interruptions in healthcare services, and the patients' inability to visit administration sites and desire to avoid contact with infected individuals. In addition, our sales and marketing teams have been working remotely and our virtual initiatives with respect to marketing and supporting the sale and administration of our products have not been as effective as our in-person sales and marketing activities. We cannot predict when we will be able to resume in-person sales and marketing activities.

Quarantines, shelter-in-place, safer-at-home and similar government orders, or the perception that such orders, shutdowns or other restrictions on the conduct of business operations could be re-implemented or could continue to occur, related to COVID-19 or other infectious diseases could impact personnel at third-party manufacturing facilities upon which we rely, or the availability or cost of materials, which could disrupt the supply chain for our products. In particular, some of our suppliers of certain materials used in the production of our drug products are located in regions that continue to be subject to COVID-19-related actions and policies that limit the conduct of normal business operations. To the extent our suppliers and service providers are unable to comply with their obligations under our agreements with them or they are otherwise unable to deliver or are delayed in delivering goods and services to us due to the COVID-19 pandemic, our ability to continue meeting commercial

demand for our products in the United States or advancing development of our product candidates may become impaired. At this time, we consider our inventories on hand to be sufficient to meet our commercial requirements.

In addition, our clinical trials have been affected by COVID-19. Clinical site initiation and patient enrollment has been delayed due to prioritization of hospital resources toward COVID-19. Current or potential patients in our ongoing or planned clinical trials have chosen to not enroll, not participate in follow-up clinical visits or drop out of the trial as a precaution against contracting COVID-19. Further, some patients may not be able to comply with clinical trial protocols if quarantines continue to impede patient movement or interrupt healthcare services. Some clinical sites in the United States have slowed or stopped further enrollment of new patients in clinical trials, denied access to site monitors or otherwise curtailed certain operations. For example, the clinical trial timelines for certain of our product candidates, including EA-114 (our fulvestrant product candidate), have been delayed given difficulties with patient enrollment resulting from the COVID-19 pandemic, and we expect that clinical trial timelines will continue to be delayed for the duration of the pandemic. Similarly, our ability to recruit and retain principal investigators and site staff who, as healthcare providers, may have heightened exposure to COVID-19, has been and may continue to be adversely impacted. These events could delay our clinical trials, increase the cost of completing our clinical trials and negatively impact the integrity, reliability or robustness of the data from our clinical trials.

The spread of COVID-19 and actions taken to reduce its spread and ameliorate its impact may also materially affect us economically. As a result of the COVID-19 pandemic and actions taken to slow its spread and ameliorate its impact, the global credit and financial markets have experienced extreme volatility and disruptions, including diminished liquidity and credit availability, declines in consumer confidence, declines in economic growth, increases in unemployment rates and uncertainty about economic stability. If the equity and credit markets deteriorate, it may make any additional debt or equity financing more difficult, more costly or more dilutive. While the potential economic impact brought by, and the duration of, the COVID-19 pandemic may be difficult to assess or predict, there could continue to be a significant disruption of global financial markets, reducing our ability to access capital, which could negatively affect our liquidity and financial position or our business development activities.

The COVID-19 pandemic continues to rapidly evolve. The extent to which COVID-19 continues to impact the marketing, sale and commercialization of our products, our supply chain, our clinical trials, our access to capital and our business development activities, depends on future developments, which are highly uncertain and cannot be predicted with confidence, such as the ultimate geographic spread of the pandemic, the duration of the pandemic and the efforts by governments and business to contain it, business closures or business disruptions, any re-opening plans, additional closures and spikes or surges in COVID-19 infection, and the impact on the economy and capital markets.

In addition, our financial condition, results of operations, business and cash flow may be negatively affected by general economic, industry and market conditions in the global economy and in the global financial markets, such as rising inflation, increased costs of goods, supply chain disruptions and uncertainty about economic stability and the financial markets. The global economy has experienced extreme volatility and disruptions from international conflicts, terrorism or other geopolitical events, such as the ongoing conflict between Russian and Ukraine, and related sanctions and other economic disruptions or concerns. On February 24, 2022, Russia initiated significant military action against Ukraine. In response, the United States and certain other countries imposed significant sanctions and trade actions against Russia and could impose further sanctions, trade restrictions, and other retaliatory actions if the conflict continues or worsens. It is not possible to predict the broader consequences of the conflict, including related geo-political tensions, and the measures and retaliatory actions that will be taken by the United States and other countries in respect thereof, as well as any countermeasures or retaliatory actions Russia may take in response, are likely to cause regional instability and geo-political shifts and could materially adversely affect global trade, currency exchange rates, regional economies, and the global economy. Additional actions that we or others may take in response to the conflict could increase our costs, disrupt our supply chain, impair our ability to raise or access additional capital when needed on acceptable terms, if at all, or otherwise adversely affect our business, financial condition, and results of operations.

There can be no assurance that further deterioration in credit and financial markets and confidence in economic conditions will not occur. A severe or prolonged economic downturn could result in a variety of risks to our business, including weakened demand for our products or products or our partners and our ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy could also strain our suppliers, possibly resulting in supply disruption. If the equity and credit markets deteriorate, it may make any necessary debt or equity financing more difficult, more costly, and more dilutive. Failure to secure any necessary financing in a timely manner and on favorable terms could impair our ability to achieve our growth strategy, could harm our financial performance and stock price and could require us to delay or abandon our plans and

programs. In addition, there is a risk that our current or future service providers, manufacturers or other collaborators may not survive such difficult economic times, which could directly affect our ability to attain our operating goals on schedule and on budget. We cannot anticipate all of the ways in which the current economic climate and financial market conditions could adversely impact our business

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

In June 2022, we completed the acquisition of Acacia, pursuant to which Acacia Pharma shareholders received €0.68 in cash and 0.0049 shares of our common stock for each Acacia Pharma share.

Issuer Purchases of Equity Securities

Share Repurchase Program

In March 2020, our board of directors approved our current share repurchase program (the "Share Repurchase Program"), providing for the repurchase of up to an aggregate of $160 million of our outstanding common stock.

Under the Share Repurchase Program, we are 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 Securities Exchange Act of 1934, as amended. The 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 our cash resources.

We made no purchases of our equity securities during the period covered by this Quarterly Report on Form 10-Q.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

EXHIBIT INDEX

Exhibit Number		Description of Exhibit
2.1		Announcement, dated March 28, 2022 (incorporated by reference to Exhibit 2.1 to the Registrant's Current Report on Form 8-K, SEC File No. 333-36306, filed on March 28, 2022).
2.2		Co-operation Agreement, dated March 27, 2022, by and between Eagle Pharmaceuticals, Inc. and Acacia Pharma Group plc. (incorporated by reference to Exhibit 2.2 to the Registrant's Current Report on Form 8-K, SEC File No. 333-36306, filed on March 28, 2022).
3.1		Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.2 to the Registrant's Registration Statement on Form S-1/A, SEC File No. 333-192984, filed January 28, 2014)
3.2		Amended and Restated Bylaws (incorporated by reference to Exhibit 3.4 to the Registrant's Registration Statement on Form S-1/A, SEC File No. 333-192984, filed January 28, 2014)
10.1		Securities Purchase Agreement, by and between the Registrant and Enalare Therapeutics Inc., dated August 8, 2022 (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, SEC File No. 333-36306, filed on August 9, 2022)
10.2		Security Purchase Option Agreement, by and between the Registrant, Enalare Therapeutics Inc. and the other parties thereto, dated August 8, 2022 (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, SEC File No. 333-36306, filed on August 9, 2022)
10.3	(1)	Guaranty Agreement to Loan Agreement, by and among the Registrant, Acacia Pharma Limited and Cosmo Technologies Ltd., dated June 9, 2022
31.1	(1)	Certification of Principal Executive Officer pursuant to Rule 13a-14(a) and15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	(1)	Certification of Principal Financial Officer pursuant to Rule 13a-14(a) and15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	**	Certification of Principal Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS		XBRL Instance Document - 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		Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101).

(1) Filed herewith.

**The certifications attached as Exhibit 32.1 that accompany this Quarterly Report on Form 10-Q are not deemed filed with the SEC and are 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 hereof), irrespective of any general incorporation language contained in such filing.

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 9, 2022

By: /s/ Scott Tarriff
Scott Tarriff
(On behalf of the Registrant and as President and Chief Executive Officer as Principal Executive Officer)

DATED: August 9, 2022

By: /s/ Brian J. Cahill
Brian J. Cahill
Chief Financial Officer
(Principal Accounting Officer and Principal Financial Officer)

Exhibit 10.3

DATED

June 9, 2022

Guarantee and indemnity

between

EAGLE PHARMACEUTICALS, INC.

and

COSMO TECHNOLOGIES LTD

266602710 v6

CONTENTS

CLAUSE

This deed is dated _____ 2022

Parties

(1) **EAGLE PHARMACEUTICALS, INC.** a Delaware corporation whose address is at 50 Tice Boulevard, Suite 315, Woodcliff Lake, NJ 07677, USA as guarantor and indemnifier (the "**Guarantor**"); and

(2) **COSMO TECHNOLOGIES LTD** registered in Ireland with company number 395100 whose principal place of business is at Riverside II, Sir John Rogerson's Quay, Dublin 2, Ireland as lender (the "**Lender**").

BACKGROUND

(A) Lender and the Company have entered into the Relevant Document (as defined below).

(B) The Guarantor has agreed to enter into this guarantee and indemnity for the purpose of providing security to the Lender for the Company's obligations under the Relevant Document (as defined below).

Agreed terms

1. Interpretation

1.1 The definitions and rules of interpretation in this Clause apply in this deed.

"APG Group" means Acacia Pharma Group plc and each of its Subsidiaries.

"**Business Day**" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"**Company**" means Acacia Pharma Limited, a company registered in England and Wales with company registration number: 05934843).

"**Group**" means the Company and its respective Subsidiaries for the time being.

"**Guaranteed Amount**" means:

(i) the aggregate principal amount at any time made available under the Relevant Document (being at the date of this Agreement, an amount equal to €25,000,000),

together with any interest from time to time owed under or pursuant to the Relevant Document; and

(ii) any costs, fees or expenses reasonably incurred by the Lender in connection with the preservation or enforcement of this guarantee and indemnity.

"**Legal Reservations**" means:

(i) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(ii) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp taxes may be void and defences of set-off or counterclaim;

(iii) the principle that in certain circumstances any security expressed to be granted by way of fixed charge may be recharacterized as a floating charge or any security expressed to be granted by way of assignment or assignation may be recharacterized as a charge; and

(iv) similar principles, rights and defences under the laws of any relevant jurisdiction;

"**Limitation Acts**" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

"Obligor" means the Company and each Other Guarantors.

"Other Guarantors" means Acacia Pharma Group plc, Acacia Pharma Inc. and any other member of APG Group which becomes a guarantor in accordance with Clause 12.9.1 of the Relevant Document.

"**Relevant Document**" means the EUR 25,000,000 facility agreement dated 10 January 2020 between the Company and the Lender (as amended from time to time).

"**Subsidiary**" means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006.

"**Tax**" means all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction and any penalty, fine, surcharge, interest, charges or costs relating to them.

"**Termination Date**" means the date on which all amounts due under or in connection with the Relevant Document have been unconditionally and irrevocably paid and discharged in full..

1.2 Clause headings shall not affect the interpretation of this deed.

1.3 References to Clauses are to the clauses of this deed.

1.4 A reference to this deed (or to any other agreement or document referred to in this deed) is a reference to this deed (or such other agreement or document) as varied, amended, supplemented or novated in accordance with its terms from time to time.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 A "**person**" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.7 This deed shall be binding on and enure to the benefit of, the parties to this deed and their respective successors and permitted assigns, and references to a "**party**" shall include that party's successors and permitted assigns.

1.8 A reference to a "**company**" shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.9 Unless otherwise expressly provided in this deed, a reference to "**writing**" or "**written**" includes email.

1.10 Any words following the terms "**including**" and "**Include**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.11 Any obligation on a person not to do something includes an obligation not to allow that thing to be done.

1.12 Unless otherwise stated, a time of day is a reference to London time.

2. Guarantee and indemnity

2.1 Guarantee and indemnity

The Guarantor irrevocably and unconditionally:

(a) guarantees to the Lender the punctual performance by the Company of all of the Company's obligations under the Relevant Document;

(b) undertakes with the Lender that whenever the Company does not pay any amount when due under or in connection with the Relevant Document, the Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and

(c) agrees with the Lender that if the Company fails to perform any of its obligations under the Relevant Document or if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Lender immediately on demand against any cost, loss or liability it incurs as a result of the Company not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Relevant Document on the date when it would have been due. The amount payable by the Guarantor under this indemnity will not exceed the amount it would have had to pay under this Clause 2 if the amount claimed had been recoverable on the basis of a guarantee.

2.1 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Company under the Relevant Document, regardless of any intermediate payment or discharge in whole or in part.

2.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Company or any security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Guarantor under this Clause 2 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

2.3 Waiver of defences

The obligations of the Guarantor under this Clause 2 will not be affected by an act, omission, matter or thing which, but for this Clause 2, would reduce, release or prejudice any of its obligations under this Clause 2 (without limitation and whether or not known to it or the Lender) including:

(d) any time, waiver or consent granted to, or composition with, the Company or any other person;

(e) the release of the Company or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(f) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Company or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(g) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person;

(h) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Relevant Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any amounts payable or the addition of any new obligation under the Relevant Document or other document or security;

(i) any unenforceability, illegality or invalidity of any obligation of any person under the Relevant Document or any other document or security; or

(j) any insolvency or similar proceedings.

2.2 Guarantor intent

Without prejudice to the generality of Clause 2.4 (*Waiver of defences*), the Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Relevant Document and any fees, costs and/or expenses associated with any of the foregoing.

2.3 Immediate recourse

The Guarantor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor under this Clause 2. This waiver applies irrespective of any law or any provision of the Relevant Document to the contrary.

2.4 Deferral of Guarantor's rights

Until all amounts which may be or become payable by the Obligors under or in connection with the Relevant Document have been irrevocably paid in full and unless the Lender otherwise directs, the Guarantor will not exercise any rights which it may have:

(k) to be indemnified by an Obligor;

(l) to claim any contribution from any other guarantor of any Obligor's obligations under the Relevant Document;

(m) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Relevant Document or of any other guarantee or security taken pursuant to, or in connection with, the Relevant Document by the Lender;

(n) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which an Obligor has given a guarantee, undertaking or indemnity under Clause 2.1 (*Guarantee and indemnity*);

(o) to exercise any right of set-off against any Obligor; and/or

(p) to claim or prove as a creditor of any Obligor in competition with the Lender.

If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligors under or in connection with the Relevant Document to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct.

2.4 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Lender.

2.5 Guarantee limitations

Notwithstanding any other provision of this deed, the Guarantor's liability under this deed shall not exceed the Guaranteed Amount.

3. Representations and warranties

3.1 The Guarantor makes the representations and warranties set out in this Clause 3 to the Lender on the date of this deed.

3.2 The Guarantor:

(q) is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation; and

(r) has the power to own its assets and carry on its business as it is being conducted.

3.3 The Guarantor has the power to execute, deliver and perform its obligations under this deed and the transactions contemplated by it.

3.4 The execution, delivery and performance of the obligations in, and transactions contemplated by, this deed does not and will not contravene the Guarantor's constitutional documents, any agreement or instrument binding on the Guarantor or its assets, or any applicable law or regulation.

3.5 The Guarantor has taken all necessary action and obtained all required consents to enable it to execute, deliver and perform its obligations under this deed and to make this deed admissible in evidence in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

3.6 The Guarantor's obligations under this deed are, subject to the Legal Reservations, legal, valid, binding and enforceable.

3.7 No litigation, arbitration or administrative proceedings are taking place, pending or, to the Guarantor's knowledge, threatened against it or any of its assets which, in any case, are reasonably likely to be adversely determined and, if so adversely determined, would have a material adverse effect on its business, assets or condition or ability to perform its obligations under this guarantee.

3.8 No event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default under any deed or instrument which is binding on the Guarantor, or to which its assets are subject, which may reasonably be considered to have a material adverse effect on the Guarantor's ability to perform its obligations under this deed.

3.9 The Guarantor's payment obligations under this deed rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

4. Payments

4.1 All sums payable by the Guarantor under this deed shall be paid in full to the Lender in the currency in which the Company's obligations under the Relevant Document are payable:

(s) without any set-off, condition or counterclaim whatsoever; and

(t) free and clear of any deductions or withholdings whatsoever except as may be required by law or regulation which is binding on the Guarantor.

4.2 If any deduction or withholding is required by any law or regulation to be made by the Guarantor, the amount of the payment due from the Guarantor shall be increased to an amount which (after making any deduction or withholding) leaves an amount equal to the payment which would have been due if no deduction or withholding had been required.

4.3 The Guarantor shall promptly deliver or procure delivery to the Lender of all receipts issued to it evidencing each deduction or withholding which it has made.

4.4 The Guarantor shall not and may not direct the application by the Lender of any sums received by the Lender from the Guarantor under any of the terms of this deed.

5. Severance

If any provision or part-provision of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this deed.

6. Notices

6.1 A notice given to a party under or in connection with this deed:

(u) shall be in writing and in English;

(v) shall be sent to the party for the attention of the contact and to the address or email address specified in Clause 6.2, or such other address or email address, or contact as that party may notify in accordance with Clause 6.3;

(w) shall be:

(i) delivered by hand;

(ii) sent by email;

(iii) sent by pre-paid first class post or another next working day delivery service providing proof of postage; or

(iv) sent by airmail or by reputable international overnight courier (if the notice is to be served by post to an address outside the country from which it is sent); and

(x) is deemed received as set out in Clause 6.4 if prepared and sent in accordance with this Clause 6.

6.2 The addresses, email addresses and named contacts for service of notices are:

(y) Guarantor

(v) address: 50 Tice Boulevard, Suite 315, Woodcliff Lake, NJ 07677, USA

(vi) for the attention of: Ryan Debski

(vii) email address: rdebski@eagleus.com

(z) Lender

(i) address: Riverside II, Sir John Rogerson's Quay, Dublin 2, Ireland

(ii) for the attention of: Niall Donnelly

(iii) email address: NDonnelly@cosmopharma.com

6.1 A party may change its details for service of notices given in Clause 6.2 by giving notice to the other party. Any change notified pursuant to this clause shall take effect at 9.00 am on the later of:

(aa) the date, if any, specified in the notice as the effective date for the change; or

(ab) the date five Business Days after deemed receipt of the notice.

6.3 Delivery of a notice is deemed to have taken place:

(ac) if delivered by hand, at the time the notice is left at the address;

(ad) if sent by email, at the time of transmission;

(ae) if sent by pre-paid first class post or another next working day delivery service providing proof of postage to an address in the UK, at 9.00 am on the second Business Day after posting;

(af) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting;

provided that if deemed receipt under the previous paragraphs of this Clause 6.4 would occur outside Usual Business Hours, the notice shall be deemed to have been received when Usual Business Hours next recommence. For the purposes of this Clause, "Usual Business Hours" means 9.00 am to 5.30 pm local time on any day which is not a Saturday, Sunday or public holiday in the place of receipt of the notice (which, in the case of service of a notice by email shall be deemed to be the same place as is specified for service of notices on the relevant party by hand or post).

7. Variation, waiver and remedies

7.1 No variation of this deed shall be effective unless it is in writing and signed as a deed by the parties (or their authorised representatives).

7.2 No failure or delay by a party to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy under this deed or by law is only effective if it is in writing.

7.3 Except as expressly provided in this deed, the rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

8. Assignment

8.1 No party shall assign, transfer, mortgage, charge, declare a trust over, or deal in any other manner with any or all of its rights and obligations under this deed (or any other document referred to in it).

9. Third party rights

9.1 Unless expressly provided to the contrary in this deed, a person who is not a party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed.

9.2 Notwithstanding any term of this deed, the consent of any person who is not a party is not required to rescind or vary this deed at any time.

10. Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one deed.

11. Termination

This deed shall automatically terminate, and the rights and obligations of the parties shall be released, on the Termination Date.

12. Governing law

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

13. Jurisdiction of English Courts

13.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute relating to the existence, validity or termination of this deed or any non-contractual obligation arising out of or in connection with this deed (a "**Dispute**").

13.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

13.3 This Clause 13 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

14. Service of Process

14.1 Without prejudice to any other mode of service allowed under any relevant law, the Guarantor:

(i) irrevocably appoints Oakwood Corporate Services Limited of 3rd Floor, 1 Ashley Road, Altrincham, Cheshire, WA14 2DT as its agent for service of process in relation to any proceedings before the English courts in connection with the Relevant Document; and

(ii) agrees that failure by an agent for service of process to notify the Guarantor of the process will not invalidate the proceedings concerned.

14.2 If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Guarantor must immediately (and in any event within five (5) Business Days of such event taking place) appoint another agent on terms acceptable to the Lender. Failing this, the Lender may appoint another agent for this purpose.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by

EAGLE PHARMACEUTICALS, INC.

By: **/s/** Ryan Debski _____
Name: Ryan Debski
Title: General Counsel and Chief Compliance Officer

Executed as a deed by

COSMO TECHNOLOGIES LTD

acting by Niall Donnelly /s/ Niall Donnelly.

a director, in the presence of Signature of director

/s/ Shanilee Alimes

Signature of witness

Shanilee Alimes

Name of witness

……..

……..

……..

Address of witness

Exhibit 31.1

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 9, 2022

/s/ Scott Tarriff

Scott Tarriff
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Brian J. Cahill, 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 9, 2022

/s/ Brian J. Cahill

Brian J. Cahill
Chief Financial Officer
(Principal Accounting and Financial Officer)

Exhibit 32.1

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 **Brian J. Cahill**, 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, 2022, (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 9th day of August 2022.

By: /s/ Scott Tarriff

Scott Tarriff
Chief Executive Officer
(Principal Executive Officer)

By: /s/ Brian J. Cahill

Brian J. Cahill
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.