UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

☒ ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended **December 31, 2022**

☐ TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: **001-38543**

OptimizeRx Corporation

(Exact name of registrant as specified in its charter)

Nevada	**26-1265381**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
400 Water Street, Suite 200 Rochester, MI	**48307**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number: **248-651-6568**

Securities registered under Section 12(b) of the Exchange Act:

Title of each class	**Trading Symbol**	**Name of each exchange on which registered**
Common Stock, par value $0.001	OPRX	NASDAQ Capital Market

Securities registered under Section 12(g) of the Exchange Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by checkmark 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," "smaller reporting company," and "emerging growth 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 has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter. $486,888,119

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date. 17,100,097 common shares as of February 28, 2023.

DOCUMENTS INCORPORATED BY REFERENCE

Certain portions of the registrant's definitive proxy statement, in connection with its 2023 Annual Meeting of Shareholders, to be filed with the Securities and Exchange Commission within 120 days after December 31, 2022, are incorporated by reference into PART III of this Annual Report on Form 10-K.

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PART I

Forward-Looking Statements

This Annual Report on Form 10-K contains statements that relate to future events and expectations and, as such, constitute forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995. Certain statements, other than purely historical information, including estimates, projections, statements relating to our strategies, outlook, business and financial prospects, business plans, objectives, and expected operating results, and the assumptions upon which those statements are based, are "forward-looking statements." These forward-looking statements generally are identified by the words "believes," "project," "expects," "anticipates," "estimates," "intends," "strategy," "plan," "may," "will," "would," "will be," "will continue," "will likely result," and similar expressions. Forward-looking statements are based on current expectations and assumptions that are subject to risks and uncertainties which may cause actual results to differ materially from the forward-looking statements. Forward-looking statements are not guarantees of future performance. Although OptimizeRx believes that the expectations reflected in any forward-looking statements are based on reasonable assumptions, these expectations may not be attained and it is possible that actual results may differ materially from those indicated by these forward-looking statements due to a variety of risks, uncertainties and changes in circumstances, many of which are beyond OptimizeRx's control.

For a discussion of some of the specific factors that could cause actual results to differ materially from the information contained in this report, see the following sections of this report: Part I, Item 1A. "Risk Factors," and Part II, Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations," including the disclosures under "Critical Accounting Estimates". Market projections are subject to the risks discussed in this report and other risks in the market. OptimizeRx disclaims any intention or obligation to update publicly any forward-looking statements, whether in response to new information, future events or otherwise, except as required by applicable law.

Unless otherwise specified or the context otherwise requires, when used in this Annual Report on Form 10-K, the terms "we," "our," "us," "OptimizeRx," or the "Company" refer to OptimizeRx Corporation and its subsidiaries.

Item 1. Business

General

OptimizeRx is a digital health technology company enabling care-focused engagement between life sciences organizations, healthcare providers, and patients at critical junctures throughout the patient care journey. Connecting over 60% of U.S. healthcare providers and millions of their patients through an intelligent technology platform embedded within a proprietary point-of-care network, OptimizeRx helps patients start and stay on their medications.

We are a Nevada corporation organized in September 2008. We conduct our operations through our wholly-owned subsidiaries, OptimizeRx Corporation, a Michigan corporation, CareSpeak Communications, Inc., a New Jersey corporation, CareSpeak Communications, D.O.O., a controlled foreign corporation incorporated in Croatia, and Cyberdiet, a controlled foreign corporation incorporated in Israel.

We employ a "land and expand" strategy focused on growing our existing client base and generating greater and more consistent revenues in part through the continued shift in our business model toward enterprise level engagements, while also broadening our platform with innovative proprietary solutions such as our TelaRep™ virtual communication solution and our AI-powered real-world evidence solution which uses sophisticated proprietary algorithms.

Industry Background

Life sciences organizations face a challenging commercial landscape. In recent years, they have met increased competition, shrinking market sizes, and inconsistent access to patients and healthcare professionals - their most important customers. The majority of new drug approvals, 81%, are specialty medications, leading to more complex diagnosis criteria, increased utilization management by healthcare payors, and lengthy wait times for patients to begin treatment once care decisions are made.

As a result, life sciences organizations have increasingly turned to technology solutions to support their commercial strategies. Spending on digital solutions to facilitate greater access to their end markets accounts for one-third of their collective $30bn commercial spend in the United States (U.S.).

We believe significant opportunity exists to address the unmet needs of life sciences organizations as they relate to digital solutions, including omni-channel access to health care professionals, for complex commercial challenges.

2022 Company Highlights

1. Net revenue increased to a record $62. 5 million in 2022, a 2% increase over 2021.
2. Achieved positive cash flow from operations of $10.7 million for the year ended December 31, 2022.
3. Gross margins increased from 58% to 62%.
4. Repurchased 1,214,398 shares during 2022 at an average price of $16.49 per share.
5. Increased use of Real-World Data Artificial Intelligence (“RWD.AI”) solutions. Ended the year with 6 RWD.AI deals.
6. Acquired the EvinceMed platform and related assets.
7. Published Company’s first Environmental, Social and Governance (“ESG”) Report.
8. Announced partnership with Equals 5, becoming the only source capable of delivering true omni-channel engagement with HCPs, spanning web, social, and point-of-care messaging delivery modalities.

Principal Solutions

Historically, we primarily facilitated financial messages to health care providers via their EHR and ePrescribe systems using the OptimizeRx proprietary network to solve the ever-increasing communication barriers between pharmaceutical representatives and healthcare providers. Over time, as the demand for communication of an increasing variety of different health information between life science companies, providers, and patients has risen, our platform has expanded to encompass additional solutions that enable healthcare providers to access information for patients at the point of care. These solutions include evidence-based physician engagement, point of care banner messaging, social network banner messaging, institutional account-based banner messaging, innovative patient engagement services, and various accelerators to the therapy initiation workflow.

Our principal solutions can be summarized as follows:

Evidence-Based Physician Engagement – Our evidence-based physician engagement solution uses predictive analytics via machine learning methods applied to real-world data (RWD) to assist healthcare providers (HCPs) in identifying patients who may be qualified for specific therapies, raise awareness of patient access pathways, and identify early indicators of non-adherence among patient populations. This RWD-enabled solution translates into better support for providers as they look to make the best treatment decisions for their patients. This solution has a “patient-first” focus, helping manufacturers identify which HCPs to engage by first identifying if they currently care for qualified patients, based on where they are in their care journey and disease state. These Artificial Intelligence (“AI”) models provide our clients with the most relevant targets and fuel the deployment of programs across our other solutions.

Point of Care Banner Messaging – Our point of care banner messaging solution is utilized to deliver a variety of awareness (brand, therapeutic support, affordability, HUB, and patient support program) and messaging within the clinical workflow which can be tailored to meet the needs of each brand.

Social Network Banner Messaging – This past year we expanded to provide exclusive access to deliver banner messaging to HCPs within their social network apps. With extensive reach and granular reporting, this solution both expands the ability to reach more prescribers while adding to the mind share we can capture throughout a care delivery day. Given these messages are targeted to specific HCPs, many of the same awareness messages offered on the point of care banner solution are offered here as well.

Institutional Account-based Banner Messaging – Our Institutional Account-based Banner Messaging solution provides our clients access to delivering banner messaging online and on the intranets of targeted health system accounts. This allows our clients to capture additional mind share while also reaching other prescribers and support staff at key health systems or integrated delivery networks (IDNs).

Financial Messaging – Our Financial Messaging solution has been enhanced by Patient Support Messaging at the point-of-care. This solution provides prescribers visibility to branded copay offers and other patient support programs directly within their EHR and/or e-Prescribe system(s). It allows them to print, digitally send directly to patients via SMS, and/or digitally send copay offer details electronically to the dispensing pharmacy. Our solution addresses the fact that many healthcare systems and prescribers are looking for an easier, more effective way to increase affordable access and adherence to their prescribed branded medications.

Patient Engagement – Our technology solution provides digital messaging services through our cloud-based Mobile Health Messenger ("MHM") Platform. We provide interactive health messaging for improved medication adherence and care coordination. Our HIPAA-compliant, automated, mobile messaging platform allows pharmaceutical manufactures and related entities to directly engage with patients to improve regimen compliance.

Therapy Initiation Workflow – The therapy initiation workflow is a group of digital solutions focused on accelerating patient access to treatments where time-consuming medical documentation is required of HCPs prior to pharmacies dispensing prescribed drugs. These solutions support the fast-growing area of specialty medications. This technology enhancement allows life sciences companies to simplify therapy initiation by presenting HCPs with a fully electronic option synchronizing enrollment, benefits verification, prior authorization, and patient support onboarding.

Sales and Marketing

We employ a sales team of over 19 people, marketing our solutions to new and existing clients. Our sales team drives awareness of the increased value of our technology stack as an enterprise platform, enhanced this year by the addition of the social channel, and momentum of our institutional/account-based banner message solutions offering. Accordingly, our sales efforts are not directed merely at selling individual solutions, but more broadly towards selling enterprise platform engagements with access to our full set of solutions across our network.

Our sales and marketing organizations work closely together to cultivate customer relationships. We use a number of methods to market and promote our solutions, including digital advertising, industry events, trade shows, conferences, media coverage, social media and email. We released a physician survey of 100 physicians across five specialties, detailing the specialty landscape as it pertains to prescribing pain points specialists experience. Additionally, we hosted our third annual Innovate4Outcomes event, partnering with Melinta Therapeutics, bringing individuals together across healthcare verticals, including HCPs, commercial manufacturer representatives, and health tech. The event focused on applying design thinking principles to contributing factors to Anti-Microbial Resistance, and was independently covered in end-of-year trade publications for the first time.

Technology

To support our growth and provide maximum security, scalability, and flexibility, all of our systems, including from acquisitions, are now hosted and integrated in the cloud. Our technology development and systems management core team is in the U.S. and in Croatia, with contractors in India and Ukraine to provide bench depth, rich skills experience, and business economies. The teams are organized into Centers of Excellence focused on Product Domains, Quality Assurance, Information Security, Data Warehousing and Business Intelligence, Platform Services, and Internal Systems Support.

Systems enhancements in 2022 included upgrades and documentation of processes and procedures and security implementation for ongoing Sarbanes Oxley, HIPAA, and customer assessments, and in achieving Enterprise HITRUST Certification, as well as for other needs.

Competition

Our platforms face competition from numerous other companies, both in attracting users and in generating revenue from advertisers and sponsors. We compete for users with online services and websites that provide savings on medications and healthcare products. Our messaging offerings compete for pharmaceutical budgets with a variety of other forms of advertising and promotion.

Our platforms compete broadly in the highly competitive pharmaceutical and life sciences digital marketing industry that is dominated by large well-known companies with established names, solid market niches, wide arrays of product offerings and marketing networks. Many of our competitors have greater financial, technical, product development, marketing and other resources than we do. These companies may be better known than we are and have more customers or users than we do. As a result, many of these companies may respond more quickly to new or emerging technologies and standards and changes in customer requirements. These companies may be able to invest more resources in research and development, strategic acquisitions, and sales and marketing. The primary direct competitor in our financial messaging solution is ConnectiveRx. We generally compete on the basis of several factors, including size of our network, quality of our service, our ability to target specific customer needs, and to a lesser extent, price. For more information on risks relating to our competition, see Item 1A. Risk Factors.

Intellectual Property

We own patents important to our business, and we expect to continue to file patent applications to protect our research and development investments in new products. As of December 31, 2022 we held 3 patents and several pending patent applications, including foreign counterpart patents and foreign applications. For the United States, patents may last 20 years from the date of the patent's filing, depending upon term adjustments made by the patent office.

In addition, we hold trademarks in the United States and other countries. As of December 31, 2022, OPTIMIZERx, OPTIMIZEMD, CareSpeak, DIETWATCH, Innovate4Outcomes, SPRx, SPx and TELAREP are our registered trademarks. We also have several pending trademark applications.

We also have licenses to intellectual property for the use and sale of certain of our solutions. In addition, we obtain other intellectual property rights and/or licenses used in connection with our business when practical and appropriate. Historically, we have created intellectual property or obtained intellectual property through commercial relationships and in connection with acquisitions.

Government Regulation

The healthcare industry and, in particular, our customers and partners are subject to U.S. federal, state and local laws and regulations, including those governing fraud, abuse, privacy and security. Many of these laws and regulations are complicated and how they might apply to us, our customers, our partners, or the specific services and relationships we have with our customers and partners are not always well-defined. Our failure, or perceived failure, to accurately apply, or comply with, these laws and regulations could subject us to significant fines and liability, result in reputational harm, and adversely affect our business. Any new or amended laws or regulations that impose significant operational restrictions and compliance requirements may negatively impact our business. See Item 1A. Risk Factors for more information on the impact of Government Regulations on OptimizeRx.

Employees

As of December 31, 2022, we had 94 full-time employees in the U.S, as well as 15 full-time employees in Croatia, and 1 part-time employee. None of our employees are represented by a labor union or collective bargaining agreement with respect to their employment with us. The majority of our employees work remotely and are geographically distributed across the United States and Croatia. We supplement our workforce with contractors in the United States and internationally on an as-needed basis. We consider our relationship with our employees to be good and have not experienced any work stoppages.We are dedicated to maintaining an environment where everyone feels valued, and we celebrate both the differences and similarities among our people. We also believe that diversity in all areas, including cultural background, experience and thought, is essential in making our Company stronger. Our Diversity, Equity & Inclusion Committee (DE&I) is actively engaged in improving our culture, hiring practices and education. In 2022, we endeavored to uphold the Parity Pledge – a commitment made in 2021 to interview and consider at least one qualified woman and underrepresented minority for every open role, VP or higher. In addition, the DE&I Committee sponsored quarterly events in 2022, including "Celebrate Women's History", "Celebrate Diversity Month", and "Hot One's Trivia Show."

We prioritize recruiting, retaining, and incentivizing a highly qualified, diverse workforce. We pay our employees competitively and offer a broad range of company-paid benefits, which we believe are competitive with others in our industry. Moreover, we believe our long-term incentives are structured in a manner to provide time-based vesting schedules that are retentive and we incentivize selected employees through the granting of stock-based awards for and cash-based performance bonus awards.

We have increased our focus on training and development for our current employees. We offer learning and development opportunities and other resources to support our employees in achieving and enhancing their development objectives. We equip our managers with the skills and tools to provide ongoing coaching and feedback so employees can maximize their performance and potential, delivering success for the company and the employee.

Available Information

Our Internet address is www.optimizerx.com. The information on the website is not and should not be considered part of this Form 10-K and is not incorporated by reference in this Form 10-K. The website is, and is only intended to be, for reference purposes only. We make available free of charge on or through our website our Annual Report on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission (the "SEC"). In addition, we will provide, at no cost, paper or electronic copies of our reports and other filings made with the SEC. Requests should be directed to: Attention: Secretary, OptimizeRx Corporation, 400 Water Street, Suite 200, Rochester, MI 48307.

Item 1A. Risk Factors

Risks Relating to Our Business

Because we have historically experienced losses, if we are unable to achieve profitability, our financial condition and company could suffer.

With the exception of 2021, we have historically incurred losses as a result of investing in future growth. We incurred losses in 2022 as a result of our increased spending to build the organization to support expected future growth – both through additional new hires, as well as through acquisitions. While we have increased revenues, we have not yet consistently achieved profitability due to these investments and non-cash expenses. Our ability to achieve consistent profitability depends on our ability to generate sales through our technology platform and advertising model, while maintaining reasonable expense levels. If we do not achieve sustainable profitability, it may impact our ability to continue our operations.

Seasonal trends in the pharmaceutical brand marketing industry could affect our operating results.

In general, the pharmaceutical brand marketing industry experiences seasonal trends that affect the vast majority of participants in the pharmaceutical digital marketing industry. Many pharmaceutical companies allocate the largest portion of their brand marketing to the fourth quarter of the calendar year. As a result, the first quarter tends to reflect lower activity levels and lower revenue, with gradual increases in the following quarters. We generally expect these seasonality trends to continue and our ability to effectively manage our resources in anticipation of these trends may affect our operating results.

Developing and implementing new and updated applications, features and services for our portals may be more difficult than expected, may take longer and cost more than expected and may not result in sufficient increases in revenue to justify the costs.

Attracting and retaining users of our portals requires us to continue to improve the technology underlying those portals and to continue to develop new and updated applications, features and services for those portals. If we are unable to do so on a timely basis or if we are unable to implement new applications, features and services without disruption to our existing ones, we may lose potential users and clients. The costs of development of these enhancements may negatively impact our ability to achieve profitability.

We rely on a combination of internal development, strategic relationships, licensing and acquisitions to develop our portals and related applications, features and services. Our development and/or implementation of new technologies, applications, features and services may cost more than expected, may take longer than originally expected, may require more testing than originally anticipated and may require the acquisition of additional personnel and other resources. There can be no assurance that the revenue opportunities from any new or updated technologies, applications, features or services will justify the amounts spent.

Any failure to offer high-quality customer support for our portals may adversely affect our relationships with our customers and harm our financial results.

Once our solutions are implemented, our customers use our support organization to resolve technical issues relating to our solutions. In addition, we also believe that our success in selling our solutions is highly dependent on our business reputation and on favorable recommendations from our existing customers. Any failure to maintain high-quality customer support, or a market perception that we do not maintain high-quality support, could harm our reputation, adversely affect our ability to maintain existing customers or sell our solutions to existing and prospective customers, and harm our business, operating results and financial condition.

We may be unable to respond quickly enough to accommodate short-term increases in customer demand for support services. Increased customer demand for these services, without corresponding revenues, could also increase costs and adversely affect our operating results.

We are dependent on a concentrated group of customers.

Because the pharmaceutical industry is dominated by large companies with multiple brands, our revenue is concentrated in a relatively small number of companies. We have approximately 100 pharmaceutical manufacturers as customers, and our revenues are concentrated in these customers. Loss of one or more of our larger customers could have a negative impact on our operating results. Our top five customers represented 39% of revenue for the year ended December 31, 2022. In each of 2022 and 2021, we had one customer that each represented slightly over 10% of our revenues.

We expect that we will continue to depend upon a relatively small number of customers for a significant portion of our total revenues for the foreseeable future. The loss of any of these customers or groups of customers for any reason, or a change of relationship with any of our key customers could cause a material decrease in our total revenues.

Additionally, mergers or consolidations among our customers in the healthcare industry could reduce the number of our customers and could adversely affect our revenues and sales. In particular, if our customers are acquired by entities that are not also our customers, that do not use our solutions or that have more favorable contract terms with competitors and choose to discontinue, reduce or change the terms of their use of our solutions, our business and operating results could be materially and adversely affected.

If we are unable to maintain our contracts with electronic prescription platforms, our business will suffer.

We are reliant upon our contracts with leading electronic prescribing ("ERx") platforms and electronic health record ("EHR") systems to generate our revenues received from customers. Such arrangements subject us to a number of risks, including the following:

- Our ERx and EHR partners may experience financial, regulatory or operational difficulties, which may impair their ability to focus on and fulfill their contract obligations to us;
- Legal disputes or disagreements, including the ownership of intellectual property, may occur with one or more of our ERx and EHR partners and may lead to lengthy and expensive litigation or arbitration;
- Significant changes in an ERx and EHR partner's business strategy may adversely affect a partner's willingness or ability to satisfy obligations under any such arrangement;
- The failure of an ERx or EHR partner to provide accurate and complete financial information to us or to maintain adequate and effective internal control over its financial reporting may negatively affect our ability to meet our financial reporting obligations as required by the SEC;and
- An ERx and EHR partner could terminate the partnership arrangement, which could negatively impact our ability to sell our solutions and achieve revenues.

We will need to maintain these relationships as well as diversify them. The inability to do so could adversely impact our business. We generated 31.8% and 53.9% of our revenue through our largest partner in 2022 and 2021, respectively.

Our agreements with ERx and EHR channel partners are subject to audit.

Our agreements with our ERx and EHR channel partners provide for revenue sharing payments to them based on the revenue we generate through their platforms and systems. These payments are subject to audit by our channel partners, at their cost, and if there is a dispute as to the calculation, we may be liable for additional payments. If an underpayment is determined to be in excess of a certain amount, for example 10%, some agreements would require us to pay for the cost of the audit, as well.

If we fail to attract new customers or retain and expand existing customers, our business and future prospects may be materially and adversely impacted.

We currently work with many leading pharmaceutical companies, medical device manufacturers, associations, and other companies. While we have experienced customer growth, this growth may not continue at the same pace in the future or at all. Achieving growth in our customer base may require us to engage in increasingly sophisticated and costly sales and marketing efforts that may not result in additional customers. We may also need to modify our pricing model to attract and retain such customers. If we fail to attract new customers or fail to maintain or expand existing relationships in a cost-effective manner, our business and future prospects may be materially and adversely impacted.

Actual or perceived failures to comply with applicable laws and regulations that affect the healthcare industry, including data protection, privacy and security, fraud and abuse laws, regulations, standards and other requirements could adversely affect our business, results of operations, and financial condition.

The global data protection landscape is rapidly evolving, and we are or may become subject to numerous state, federal and foreign laws, requirements and regulations governing the collection, use, disclosure, retention, and security of personal information, including health-related information. This evolution may create uncertainty in our business, affect our ability to operate in certain jurisdictions or to collect, store, transfer, use and share personal information, necessitate the acceptance of more onerous obligations in our contracts, result in liability or impose additional costs on us. The cost of compliance with these laws, regulations and standards is high and is likely to increase in the future. Any failure or perceived failure by us to comply with federal, state or foreign laws or regulation, our internal policies and procedures or our contracts governing our processing of personal information could result in negative publicity, government investigations and enforcement actions, claims by third parties, and damage to our reputation, any of which could have a material adverse effect on our operations, financial performance and business.

We also may be bound by contractual obligations and other obligations relating to privacy, data protection, and information security that are more stringent than applicable laws and regulations. The costs of compliance with, and other burdens imposed by, laws, regulations, standards, and other obligations relating to privacy, data protection, and information security are significant. Although we work to comply with applicable laws, regulations, and standards, our contractual obligations and other legal obligations, these requirements are evolving and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with another or other legal obligations with which we must comply. Accordingly, our failure, or perceived inability, to comply with these laws, regulations, standards, and other obligations may limit the use and adoption of our solution, reduce overall demand for our solution, lead to regulatory investigations, breach of contract claims, litigation, and significant fines, penalties, or liabilities for actual or alleged noncompliance or slow the pace at which we close sales transactions, any of which could harm our business.

The Health Insurance Portability and Accountability Act of 1996, or HIPAA, and the rules promulgated thereunder require certain entities, referred to as Covered Entities, to comply with established standards, including standards regarding the privacy and security of protected health information, or PHI. HIPAA further requires that Covered Entities enter into agreements meeting certain regulatory requirements with their business associates, as such term is defined by HIPAA, which, among other things, obligate the business associates to safeguard the covered entity's PHI against improper use and disclosure. While we are not a Covered Entity, we have contracted as a business associate of our Covered Entity customers and, as such, may be regulated by HIPAA and have contractual obligations unders such agreements, including to enter into business associate agreements with our third-party vendors. We, and our Covered Entity customers might face significant contractual liability pursuant to such business associate agreements if the business associate breaches the agreement or causes the Covered Entity to fail to comply with HIPAA. It is possible that HIPAA compliance could become a substantial regulatory burden and expense to our operations as we expand our point of care technology solutions to help patients start and stay on therapies.

Certain other laws and regulations such as federal and state anti-kickback and false claims laws may apply to us indirectly through our relationships with our customers and partners. Violations can result in considerable penalties and sanctions. If we are found to have violated, or to have facilitated the violation of such laws, we could be subject to significant penalties.

The markets in which we operate are competitive, continually evolving and, in some cases, subject to rapid change.

Our platforms face competition from numerous other companies, both in attracting users and in generating revenue from advertisers and sponsors. We compete for users with online services and websites that provide savings on medications and healthcare products, including both commercial sites and not-for-profit sites. We compete for advertisers and sponsors with health-related web sites, general purpose consumer web sites that offer specialized health sub-channels, other high-traffic web sites that include both healthcare-related and non-healthcare-related content and services, search engines that provide specialized health searches, and advertising networks that aggregate traffic from multiple sites.

Many of our competitors have greater financial, technical, product development, marketing and other resources than we do. These organizations may be better known than we are and have more customers or users than we do. We cannot provide assurance that we will be able to compete successfully against these organizations or any alliances they have formed or may form. Since there are no substantial barriers to entry into the markets in which our public portals participate, we expect that competitors will continue to enter these markets.

Developments in the healthcare industry could adversely affect our business.

Most of our revenue is derived from pharmaceutical manufacturers and could be affected by changes affecting the broader healthcare industry, including decreased spending in the industry overall.

General reductions in expenditures by healthcare industry participants could result from, among other things:

- Government regulation or private initiatives that affect the manner in which healthcare industry participants interact with consumers and the general public;
- Government regulation prohibiting the use of coupons by patients covered by federally funded health insurance programs;
- Consolidation of healthcare industry participants;
- Reductions in governmental funding for healthcare; and
- Adverse changes in business or economic conditions affecting healthcare industry participants.

Even if general expenditures by industry participants remain the same or increase, developments in the healthcare industry may result in reduced spending in some or all of the specific market segments that we serve now or may serve in the future. For example, use of our solutions and services could be affected by:

- A decrease in the number of new drugs or medical devices coming to market; and
- A decrease in marketing expenditures by pharmaceutical or medical device companies.

The healthcare industry has changed significantly in recent years and we expect that significant changes will continue to occur. However, the timing and impact of developments in the healthcare industry are difficult to predict. We cannot assure you that the demands for our solutions and services will continue to exist at current levels or that we will have adequate technical, financial and marketing resources to react to changes in the healthcare industry.

If we are unable to manage growth, our operations could be adversely affected.

Our ability to manage growth effectively will depend on our ability to improve and expand operations, including our financial and management information systems, and to recruit, train and manage personnel. There can be no assurance that management will be able to manage growth effectively. To manage growth effectively, we will be required to continue to implement and improve our operating and financial systems and controls to expand, train and manage our employee base. Our ability to manage our operations and growth effectively will require us to continue to expend funds to enhance our operational, financial and management controls, reporting systems and procedures, and to attract and retain sufficient talented personnel.

If we do not properly manage the growth of our business, we may experience significant strains on our management and operations and disruptions in our business. Various risks arise when companies grow too quickly. If our business grows too quickly, our ability to meet customer demand in a timely and efficient manner could be challenged. We may also experience development delays as we seek to meet increased demand for our solutions. Our failure to properly manage the growth that we or our industry might experience could negatively impact our ability to execute on our operating plan and, accordingly, could have an adverse impact on our business, our cash flow and results of operations, and our reputation with our current or potential customers.

Our growth may be impacted by acquisitions. We may not be able to identify suitable acquisition candidates, complete acquisitions or integrate acquisitions successfully.

Our future growth is likely to depend to some degree on our ability to acquire and successfully integrate new businesses. We may not be able to identify suitable acquisition candidates, complete acquisitions, or integrate acquisitions successfully. We may seek additional acquisition opportunities, both to further diversify our business and to penetrate or expand important product offerings or markets. There are no assurances, however, that we will be able to successfully identify suitable candidates, negotiate appropriate terms, obtain financing on acceptable terms, complete proposed acquisitions, successfully integrate acquired businesses, or expand into new markets. Once acquired, operations may not achieve anticipated levels of revenues or profitability. Acquisitions involve risks, including difficulties in the integration of the operations, technologies, services and products of the acquired companies and the diversion of management's attention from other business concerns. Although our management will endeavor to evaluate the risks inherent in any particular transaction, there are no assurances that we will properly ascertain all such risks. Difficulties encountered with acquisitions could have a material adverse impact on our business.

Our business and growth may suffer if we are unable to attract and retain members of our senior management team and other key employees.

Our success has been largely dependent on the skills, experience and efforts of our senior management team and key employees and the loss of the services of any of our senior management team or other key employees, without a properly executed transition plan, could have an adverse effect on us. The loss of any member of our senior management team or any of our other key employees could damage critical customer relationships, result in the loss of vital knowledge, experience and expertise, could lead to an increase in recruitment and training costs and make it more difficult to successfully operate our business and execute our business strategy. We may not be able to find qualified potential replacements for these individuals and the integration of potential replacements may be disruptive to our business.

Furthermore, our ability to expand operations to accommodate our anticipated growth will also depend on our ability to attract and retain qualified management, sales and technical personnel. However, competition for these types of employees is intense due to the limited number of qualified professionals. Our ability to meet our business development objectives will depend in part on our ability to recruit, train and retain top quality people with advanced skills who understand our industry, technology and business. If we are unable to engage and retain the necessary personnel, our business may be materially and adversely affected.

We could be subject to economic, political, regulatory and other risks arising from our international operations.

Operating in international markets requires significant resources and management attention and will subject us to regulatory, economic and political risks that may be different from and incremental to those in the United States. In addition to the risks that we face in the United States, our international operations in Israel and Croatia, may involve risks that could adversely affect our business, including:

- difficulties and costs associated with staffing and managing foreign operations;
- natural or man-made disasters, political, social and economic instability, including wars, terrorism and political unrest, outbreak of disease , boycotts, curtailment of trade, and other business restrictions;
- compliance with United States laws, such as the Foreign Corrupt Practices Act, export controls and economic sanctions, and local laws prohibiting corrupt payments to government officials;
- unexpected changes in regulatory requirements;
- less favorable foreign intellectual property laws;
- adverse tax consequences such as those related to repatriation of cash from foreign jurisdictions into the United States, non-income related taxes such as value-added tax or other indirect taxes, changes in tax laws or their interpretations, or the application of judgment in determining our global provision for income taxes and other tax liabilities given inter-company transactions and calculations where the ultimate tax determination is uncertain;
- fluctuations in currency exchange rates, which could impact expenses of our international operations and expose us to foreign currency exchange rate risk;
- profit repatriation and other restrictions on the transfer of funds;
- differing payment processing systems as well as use and acceptance of electronic payment methods, such as payment cards;
- new and different sources of competition; and
- different and more stringent user protection, data protection, privacy and other laws.

Our failure to manage any of these risks successfully could harm our international operations and our overall business, as well as results of our operations.

A global pandemic may disrupt our business or the business of our customers.

In December 2019, a novel strain of corona virus, which causes the infectious disease known as COVID-19 was reported. The World Health Organization declared COVID-19 a Public Health Emergency and Global Pandemic. Although many economies around the world have started to rebound from the severe impact of COVID-19, the healthcare industry in which we operate remains impacted. The emergence and spread of new variants and resurgences, or other epidemics or pandemics, actions taken by governmental authorities and others in response to the pandemic, the acceptance, and the ability of pharmaceutical manufacturers and other life sciences companies to develop effective and safe treatment, and global economic conditions could affect the desire and/or need for our solutions. We are prepared to take steps to modify our business practices and mitigate the impact of the emergence and spread of new variants and resurgences, or another pandemic or epidemic; however, there can be no assurance that such steps will be successful, or that our business operations, or the operations of our customers or partners will not be materially and adversely affected by the consequences of such pandemic or epidemic, which could materially impact our results of operations, cash flows, and financial condition.

Risks Related to Inflation and Other Adverse Economic Conditions

Inflation and other adverse economic conditions may adversely affect our business, results of operations and financial condition.

Recently, inflation has increased throughout the U.S. economy. In an inflationary environment, we may experience increases in the prices of labor and other costs of doing business. Additionally, cost increases may outpace our expectations, causing us to use our cash and other liquid assets faster than forecasted. If we are unable to successfully manage the effects of inflation, our business, operating results, cash flows and financial condition may be adversely affected.

The occurrence or perception of an economic slowdown or recession, or of a further increase in inflation, may have a negative impact on the global economy and may reduce customer demand for our products and services. In addition, macroeconomic effects such as increases in interest rates and other measures taken by central banks and other policy makers could have a negative effect on overall economic activity that could reduce our customers' demand for our products and serves. Adverse changes in demand could impact our business, collection of accounts receivable and our expected cash flow generation, which may adversely impact our financial condition and results of operations.

Risks Related to Our Intellectual Property and Technology

We are dependent, in part, on our intellectual property. If we are not able to protect our proprietary rights or if those rights are invalidated or circumvented, our business may be adversely affected.

Our business is dependent, in part, on our ability to innovate, and, as a result, we are reliant on our intellectual property. We generally protect our intellectual property through patents, trademarks, trade secrets, confidentiality and nondisclosure agreements and other measures to the extent our budget permits. There can be no assurance that patents will be issued from pending applications that we have filed or that our patents will be sufficient to protect our key technology from misappropriation or falling into the public domain, nor can assurances be made that any of our patents, patent applications, trademarks or our other intellectual property or proprietary rights will not be challenged, invalidated or circumvented. In the event a competitor or other party successfully challenges our solutions, processes, patents or licenses or claims that we have infringed upon their intellectual property, we could incur substantial litigation costs defending against such claims, be required to pay royalties, license fees or other damages or be barred from using the intellectual property at issue, any of which could have a material adverse effect on our business, operating results and financial condition. We cannot assure you that steps taken by us to protect our intellectual property and other contractual agreements for our business will be adequate, that our competitors will not independently develop or patent substantially equivalent or superior technologies or be able to design around patents that we may receive, or that our intellectual property will not be misappropriated.

If we are unable to protect our proprietary rights, we may be at a disadvantage to others who do not incur the substantial time and expense we incur. Preventing unauthorized use or infringement of our intellectual property rights is inherently difficult. Moreover, it may be difficult or practically impossible to detect theft or unauthorized use of our intellectual property. Any of the foregoing could have a material adverse effect upon our business, financial condition and results of operations.

Cybersecurity incidents could disrupt business operations, result in the loss of critical and confidential information, and adversely impact our reputation and results of operations.

Global cybersecurity threats can range from uncoordinated individual attempts to gain unauthorized access to our information technology (IT) systems to sophisticated and targeted measures known as advanced persistent threats. While we employ comprehensive measures to prevent, detect, address and mitigate these threats (including access controls, insurance, vulnerability assessments, continuous monitoring of our IT networks and systems, maintenance of backup and protective systems and user training and education), cybersecurity incidents, depending on their nature and scope, could potentially result in the misappropriation, destruction, corruption or unavailability of critical data and confidential or proprietary information (our own or that of third parties) and the disruption of business operations. The potential consequences of a material cybersecurity incident include reputational damage, loss of customers, litigation with customers and other parties, loss of trade secrets and other proprietary business data and increased cybersecurity protection and remediation costs, which in turn could adversely affect our competitiveness and results of operations.

We may be unable to support our technology to further scale our operations successfully.

Our plan is to grow through further integration of our technology in electronic platforms. Our growth will place significant demands on our management and technology development, as well as our financial, administrative and other resources. We cannot guarantee that any of the systems, procedures and controls we put in place will be adequate to support the commercialization of our operations. Our operating results will depend substantially on the ability of our officers and key employees to manage changing business conditions and to implement and improve our financial, administrative and other resources. If we are unable to respond to and manage changing business conditions, or the scale of our solutions, services and operations, then the quality of our services, our ability to retain key personnel and our business could be harmed.

Our business will suffer if our network systems fail or become unavailable.

A reduction in the performance, reliability and availability of our network infrastructure would harm our ability to distribute our solutions to our users, as well as our reputation and ability to attract and retain customers. Our systems and operations could be damaged or interrupted by fire, flood, power loss, telecommunications failure, Internet breakdown, earthquake and similar events. Our systems could also be subject to viruses, break-ins, sabotage, acts of terrorism, acts of vandalism, hacking, cyber-terrorism and similar misconduct. We might not carry adequate business interruption insurance to compensate us for losses that may occur from a system outage. Any system error or failure that causes interruption in availability of our solutions or an increase in response time could result in a loss of potential customers, which could have a material adverse effect on our business, financial condition and results of operations. If we suffer sustained or repeated interruptions, then our solutions and services could be less attractive to our users and our business would be materially harmed.

Risks Relating to Our Common Stock

If a market for our common stock is not maintained, shareholders may be unable to sell their shares.

Our common stock is traded under the symbol “OPRX” on the Nasdaq Capital Market. We do not currently have a consistent active trading market. There can be no assurance that a consistent active and liquid trading market will develop or, if developed, that it will be sustained.

Historically, our securities have been thinly traded. Accordingly, it may be difficult to sell shares of our common stock without significantly depressing the value of the stock. Unless we are successful in developing continued investor interest in our stock, sales of our stock could continue to result in major fluctuations in the price of the stock.

The market price of our common stock may be highly volatile and could fluctuate widely in price in response to various factors, many of which are beyond our control.

Our stock price is subject to a number of factors, including:

- Technological innovations or new solutions and services by us or our competitors;
- Government regulation of our solutions and services;
- The establishment of partnerships with other healthcare companies;
- Intellectual property disputes;
- Additions or departures of key personnel;
- Sales of our common stock;
- Our ability to execute our business plan;
- Operating results below or exceeding expectations;
- Our operating and financial performance and prospects;
- Loss or addition of any strategic relationship;
- General financial, domestic, international, economic, industry and other market trends or conditions; and
- Period-to-period fluctuations in our financial results.

Our stock price may fluctuate widely as a result of any of the above. In addition, the securities markets have from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies. These market fluctuations may also materially and adversely affect the market price of our common stock.

We do not expect to pay dividends in the foreseeable future and any return on investment may be limited to the value of our common stock.

We have never declared or paid any cash dividends on our common stock. We currently intend to retain all available funds and future earnings, if any, to fund our future growth and do not expect to declare or pay any dividend on shares of our common stock in the foreseeable future. As a result, the success of an investment in our common stock may depend entirely upon any future appreciation in its value. There is no guarantee that our common stock will appreciate in value or even maintain the price at which it is purchased.

Anti-takeover provisions may make it more difficult for a third party to acquire control of us, even if the change in control would be beneficial to shareholders.

The Company is a Nevada corporation. Anti-takeover provisions in Nevada law and our charter and bylaws could make it more difficult for a third party to acquire control of us. These provisions could adversely affect the market price of the common stock and could reduce the amount that shareholders might receive if the Company is sold. For example, our charter provides that the board of directors may issue preferred stock without shareholder approval. In addition, our bylaws provide that shareholders cannot act by written consent and that directors may be removed by shareholders only with the approval of the holders of not less than two-thirds of the voting power of the issued and outstanding stock entitled to vote at an annual or special meeting of the shareholders.

Risks Related to Being a Public Company

We have identified a material weakness in our internal control over financial reporting. Failure to remediate the material weakness or any other material weaknesses that we identify in the future could result in material misstatements in our financial statements.

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, as amended, our management is required to report on the effectiveness of our internal control over financial reporting. The rules governing the standards that must be met for management to assess our internal control over financial reporting are complex and require significant documentation, testing and possible remediation. Annually, we perform activities that include reviewing, documenting and testing our internal control over financial reporting. In addition, if we fail to maintain the adequacy of our internal control over financial reporting, we will not be able to conclude on an ongoing basis that we have effective internal control over financial reporting in accordance with Section 404 of the Sarbanes-Oxley Act of 2002. If we fail to achieve and maintain an effective internal control environment, we could suffer misstatements in our financial statements and fail to meet our reporting obligations, which would likely cause investors to lose confidence in our reported financial information. This could result in significant expenses to remediate any internal control deficiencies and lead to a decline in our stock price.

The Company has identified a material weakness in the Company's internal control over financial reporting. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of a company's annual or interim financial statements will not be prevented or detected on a timely basis. For further discussion of the material weaknesses, see Item 9A, Controls and Procedures.

We cannot provide assurance that we have identified all, or that we will not in the future have additional, material weaknesses in our internal control over financial reporting. As a result, we may be required to implement further remedial measures and to design enhanced processes and controls to address deficiencies. If we do not effectively remediate the material weakness identified by management and maintain adequate internal controls over financial reporting in the future, we may not be able to prepare reliable financial reports and comply with our reporting obligations under the Exchange Act on a timely basis. Any such delays in the preparation of financial reports and the filing of our periodic reports may result in a loss of public confidence in the reliability of our financial statements, which, in turn, could materially adversely affect our business, the market value of our common stock and our access to capital markets.

Item 1B. Unresolved Staff comments

None

Item 2. Properties

Currently, we do not own any real estate. Our principal executive offices are located at 400 Water Street, Suite 200, Rochester, Michigan 48307.

As of December 31, 2022, we have operating leases for office space in two multitenant facilities. The leases include our headquarters space in Rochester, Michigan and a technical facility in Zagreb, Croatia. The lease in Rochester, Michigan expires November 30, 2023, with a two-year renewal option through 2025, and has a monthly rent of $6,384 to $6,688. The lease in Zagreb, Croatia expires February 2024 and has a monthly rent of approximately $1,883. We also had a lease on office space in Cranbury, New Jersey which expired in January 2022; we did not renew this lease. We also lease minor amounts of space in shared space facilities on a month-to-month basis as necessary.

Item 3. Legal Proceedings

We have no current legal proceedings.

Item 4. Mine Safety Disclosures

Not applicable.

Item 4.1 Information About Our Executive Officers

The following information sets forth the names, ages, and positions of our executive officers as of March 10, 2023.

Name	Age	Positions and Offices Held
William J. Febbo	54	Chief Executive Officer
Stephen L. Silvestro	45	Chief Commercial Officer
Marion Odence-Ford	58	General Counsel and Chief Compliance Officer
Edward Stelmakh	57	Chief Financial Officer and Chief Operations Officer
Todd Inman	67	Chief Technology Officer
Doug Besch	41	Chief Product Officer

Set forth below is a brief description of the background and business experience of each of our current executive officers.

William J. Febbo

Mr. Febbo joined the Company as Chief Executive Officer and as a director in February 2016. Mr. Febbo founded Plexuus, LLC, a payment processing business for medical professionals in September 2015 and remained its Chairman from September 2015 to December 2020. From April 2007 to September 2015, Mr. Febbo served as Chief Operating Officer of Merriman Holdings, Inc., an investment banking firm, where he assisted with capital raises in the tech, biotech, cleantech, consumer and resources industries. Mr. Febbo was a co-founder of, and from September 2013 to September 2015 served as Chief Executive Officer of, Digital Capital Network, Inc., a transaction platform for institutional and accredited investors. Mr. Febbo was a co-founder of, and from January 1999 to September 2015 was Chief Executive Officer of, MedPanel, LLC, a provider of market intelligence and communications for the pharmaceutical, biomedical, and medical device industries. Since 2017, Mr. Febbo has been a faculty member of the Massachusetts Institute of Technology's linQ program, which is a collaborative initiative focused on increasing the potential of innovative research to benefit society and the economy. Mr. Febbo currently serves as a director of Modular Medical (NASDAQ: MODD), a development stage medical device company focused on the design, development and eventual commercialization of an innovative insulin pump, and as a director of Augmedix, Inc. (NASDAQ: AUGX), a provider of automated medical documentation and data services. In addition, Mr. Febbo has been a board member of the United Nations Association of Greater Boston, a resource for the citizens of Greater Boston on the broad agenda of critical global issues addressed by the UN and its agencies, since 2004.

On January 29, 2018, FINRA accepted a Letter of Acceptance, Waiver and Consent (the "Consent") submitted by William Febbo. Without admitting or denying the findings, Mr. Febbo consented to the sanctions and to the entry of findings that he permitted Merriman Capital, Inc. to conduct a securities business while below its net capital requirement. From August 2012 to October 2015, Mr. Febbo was the Financial and Operations Principal (FinOp) for a registered broker-dealer, Merriman Capital, Inc. ("Merriman"). During certain months while Mr. Febbo was FinOp, FINRA found that certain of Merriman's net capital filings with FINRA were inaccurate because of the method by which Merriman calculated net capital and that, when corrected, it was retroactively determined that Merriman had operated below its minimum net capital requirements. Mr. Febbo, as FinOp, signed certain of these reports and was thus held responsible. Based on the Consent, in settlement, Mr. Febbo, who was then no longer registered with any broker-dealer, accepted a fine of $5,000, a 10-business day suspension from acting as FinOp for any FINRA member and required to requalify by examination for the Series 27 license before again acting in a FinOp capacity.

Stephen L. Silvestro

Mr. Silvestro joined the Company as Chief Commercial Officer on April 29, 2019. Mr. Silvestro was with CCH® Tagetik, a Wolters Kluwer company that provides corporate performance management software solutions for planning, consolidation and reporting, as its Vice President and General Manager from January 2018 until April 2019. From April 2017 to January 2018, Mr. Silvestro was with Prognos Health, Inc., a healthcare data and analytics company, as its Chief Commercial Officer and, before that, from September 2007 to April 2017, he was with Decision Resources Group, a multi-national corporation that provides high value global data solutions, analytics and consulting services to pharmaceutical, biotech, medical device, healthcare provider and payer, and managed care companies, in various capacities with him last serving as Executive Vice President, Head of Global Sales.

Marion Odence-Ford

Ms. Odence-Ford joined the Company as General Counsel & Chief Compliance Officer in February 2021. From April 2013 to June 2020, Ms. Odence-Ford was Vice President & Deputy General Counsel at Decision Resources Group, a multi-national corporation that provides high value global data solutions, analytics and consulting services to pharmaceutical, biotech, medical device, healthcare provider and payer, and managed care companies. From November 2004 to November 2012, Ms. Odence-Ford was Vice President & Associate General Counsel at CRA International, Inc. (dba Charles River Associates) (NASDAQ: CRAI), a global consulting firm that offers economic, financial, and strategic expertise to major law firms, corporations, accounting firms, and governments around the world. From May 2004 to November 2004, Ms. Odence-Ford was a member of the GTC Law Group, LLP, a law firm specializing in the business affairs of companies in the high tech and biotech industries. Prior to joining the GTC Law Group, Ms. Odence-Ford worked on the legal teams of Bank of America Corporation/Fleet Boston Financial Corporation (NYSE: BAC) from November 2002 to May 2004, and Akamai Technologies, Inc. (NASDAQ: AKAM) from October 1999 to November 2002. Ms. Odence-Ford began her legal career in private practice at Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC, where she advised public and private companies on corporate matters.

Edward Stelmakh

Mr. Stelmakh joined the Company as Chief Financial Officer and Chief Operating Officer on October 11, 2021. Prior to joining the Company, Mr. Stelmakh served as Senior Vice President, Chief Financial Officer and Chief Operating Officer of Otsuka America Pharmaceuticals Inc. ("Otsuka"), a US division of a Japanese global healthcare enterprise, since April 2020. Previously, he held various positions at Otsuka including Senior Vice President and Chief Financial Officer (December 2017 – March 2020) and Vice President and Chief Financial Officer (December 2015 – November 2017). From March 2010 to December 2015, Mr. Stelmakh worked at Covance, a division of LabCorp, Inc., as Vice President, Finance, Clinical Development and Commercialization Services. Prior thereto, Mr. Stelmakh held a variety of positions of increasing responsibilities at Johnson & Johnson, Sanofi-Aventis, Organon/Schering-Plough and Mylan.

Todd Inman

Mr. Inman joined the Company on January 1, 2019 as Vice President, Technology and became the Company's Chief Technology Officer in November 2019. Prior to joining the Company, from May 2017 to December 2018, Mr. Inman was the Founder and Chief Technology Officer of Meghadata, LLC, a master data management firm, and from July 2016 to December 2017, Mr. Inman was the Founder and Managing Partner of Data Solutions Partners, a data intelligence solutions company. From January 2011 through June 2016, Mr. Inman was Director of Data Solutions at Change HealthCare, a healthcare technology and business solutions company, and from 2005 to 2011, Mr. Inman was the Director of Data Integration of Emdeon Business Services, LLC, an information technology and services company. Prior to Emdeon, from 2001 to 2005, Mr. Inman was the Director of Clearinghouse Services at WebMD Health Corp and, from 1996 to 2001, he was the Manager of Clearinghouse Operations at Professional Office Systems, a CareFirst subsidiary, providing medical office electronic data interchange services.

Doug Besch

Dr. Besch joined the Company on May 24, 2021 as SVP Product Strategy & Innovation and became the Company's Chief Product Officer in October 2022. Prior to joining the Company, from January 2018 to May 2021, Dr. Besch was the Vice President over Payor and Market Access Solutions for Clarivate (previously Decision Resources Group (DRG)), a multi-national corporation that provides high value global data solutions, analytics and consulting services to pharmaceutical, biotech, medical device, healthcare provider and payer, and managed care companies. Prior to Clarivate, from January 2012 to June 2017, Dr. Besch was a co-founder and the Chief Product Officer for Rx Savings Solution, a company which helps members and payers reduce prescription drug costs through a combination of clinical technology, transparency, member engagement and concierge support. Dr. Besch holds a PharmD and MBA from Creighton University and practiced as a pharmacist for the Walgreens Boots Alliance corporation from 2007 through 2013.

PART II

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters and Issuer Purchases of Equity Securities

Our common stock is traded under the symbol "OPRX" on the Nasdaq Capital Market. At February 28, 2023, there were approximately 350 shareholders of record of our common stock.

We currently intend to retain future earnings for the operation of our business. We have never declared or paid cash dividends on our common stock, and we do not anticipate paying any cash dividends in the foreseeable future. Any payment of future dividends will be at the discretion of our board of directors and will depend upon, among other things, our earnings, financial condition, capital requirements, level of indebtedness, and other factors that our board of directors deems relevant.

For the information regarding our equity compensation plans, see PART III, Item 12, "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters."

Issuer Purchases of Equity Securities

During the three months ended December 31, 2022, we purchased shares of our common stock as follows:

Period	Total Number of Shares Purchased (1)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1)	Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under the Plans or Programs (1)
10/1/22 - 10/31/22	341,934	$ 14.83	341,934	$ 2,416,111
11/1/22 - 11/30/22	166,350	$ 14.62	166,350	$ 28
12/1/22 - 12/31/22	—	$ —	—	$ 0

(1) On May 17, 2022, we announced that our Board of Directors had authorized the repurchase of up to $20 million of our outstanding common stock. Under this program, share repurchases may be made from time to time depending on market conditions, share price and availability and other factors at our discretion. This stock repurchase authorization expires on the earlier of May 17, 2023, or when the repurchase of $20 million of shares of our common stock has been reached. In accordance with its terms, the stock repurchase plan terminated as of December 1, 2022. Our stock repurchases may take place in open market transactions or privately negotiated transactions in accordance with applicable securities and other laws.

Item 6. Reserved

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

We are a digital health technology company enabling care-focused engagement between life sciences organizations, healthcare providers, and patients at critical junctures throughout the patient care journey. Connecting over 60% of U.S. healthcare providers and millions of their patients through an intelligent technology platform embedded within a proprietary point-of-care network, OptimizeRx helps patients start and stay on their medications.

Historically, our revenue was generated primarily through the facilitation of financial messages to health care providers via their EHR and ePrescribe systems using the OptimizeRx proprietary network to solve the ever-increasing communication barriers between pharmaceutical representatives and healthcare providers that have presented in the rapidly changing healthcare industry. Over time, as the demand for communication of an increasing variety of different health information between life science companies, providers, and patients continued to rise, our platform has expanded to encompass additional solutions that enable healthcare providers to access information for patients at the point of care. These solutions include brand messaging, therapeutic support messaging, brand support, and innovative patient engagement services, all of which now make up a significant portion of our total revenue.

We employ a “land and expand” strategy focused on growing our existing client base and generating greater and more consistent revenues in part through the continued shift in our business model toward enterprise level engagements, while also broadening our platform with innovative proprietary solutions such as our TelaRep™ virtual communication solution and our AI-powered real-world evidence solution which uses sophisticated proprietary algorithms to derive additional revenue from our existing network. In addition, we have continued to expand our team in preparation for future growth aspirations, which may be supplemented with future acquisitions and other strategic collaborations and investments. Our strategy for driving revenue growth is also expected to work in tandem with our efforts to increase margin and profitability using the aforementioned recurring revenue models that have inherently higher margins.

Because the pharmaceutical industry is dominated by large companies with multiple brands, our revenue is concentrated in a relatively small number of companies. We have approximately 100 pharmaceutical companies as customers, and our revenues are concentrated in these customers. Loss of one of more of our larger customers could have a negative impact on our operating results. Our top five customers represented 39% of our revenue for the year ended December 31, 2022. In each of 2022 and 2021, we had one customer that each represented more than 10% of our revenues.

Seasonality

In general, the pharmaceutical brand marketing industry experiences seasonal trends that affect the vast majority of participants in the pharmaceutical digital marketing industry. Many pharmaceutical companies allocate the largest portion of their brand marketing to the fourth quarter of the calendar year. As a result, the first quarter tends to reflect lower activity levels and lower revenue, with gradual increases in the following quarters. We generally expect these seasonality trends to continue and our ability to effectively manage our resources in anticipation of these trends may affect our operating results.

Impact of Macroeconomic Events

Unfavorable conditions in the economy may negatively affect the growth of our business and our results of operations. For example, macroeconomic events including the COVID-19 pandemic, rising inflation and the U.S. Federal Reserve raising interest rates have led to economic uncertainty. In addition, high levels of employee turnover across the pharmaceutical industry as well as fewer number of U.S. drug approvals could create additional certainty within our target customer markets. Historically, during periods of economic uncertainty and downturns, businesses may slow spending, which may impact our business and our customers’ businesses. Adverse changes in demand could impact our business, collection of accounts receivable and our expected cash flow generation, which may adversely impact our financial condition and results of operations.

Key Performance Indicators

We monitor the following key performance indicators to help us evaluate our business, measure our performance, identify trends affecting our business and make strategic decisions.

Average revenue per top 20 pharmaceutical manufacturer. Average revenue per top 20 pharmaceutical manufacturer is calculated by taking the total revenue the company recognized through pharmaceutical manufacturers listed in Fierce Pharma’s “The top 20 pharma companies by 2020 revenue” over the last twelve months, divided by the total number of the aforementioned pharmaceutical manufacturers that our solutions helped support over that time period. The Company uses this metric to monitor its progress in “landing and expanding” with key customers within its largest customer vertical and believe it also provides investors with a transparent way to chart our progress in penetrating this important customer segment. The decrease in the average in 2022 as compared to 2021 is primarily the result of the convergence of numerous macroeconomic factors that resulted in our customers slowing their rate of spend, particularly for large and/or new implementations, which we believe prolonged sales cycles with the top 20 pharmaceutical manufacturers that were existing customers.

	Twelve Months Ended December 31	
	2022	**2021**
Average revenue per top 20 pharmaceutical manufacturer	$ 2,143,296	$ 2,484,557

Percent of top 20 pharmaceutical manufacturers that are customers. Percent of top 20 pharmaceutical manufacturers that are customers is calculated by taking the number of revenue generating customers that are pharmaceutical manufacturers listed in Fierce Pharma's "The top 20 pharma companies by 2020 revenue" over the last 12 months, which is then divided by 20—which is the number of pharmaceutical manufacturers included in the aforementioned list. The Company uses this metric to monitor its progress in penetrating key customers within its largest customer vertical and believes it also provides investors with a transparent way to chart our progress in penetrating this important customer segment. The decrease in 2022 was due to the Company not supporting programs for a smaller revenue customer from 2021 in 2022.

	Twelve Months Ended December 31	
	2022	**2021**
Percent of top 20 pharmaceutical manufacturers that are customers	90%	95%

Percent of total revenue attributable to top 20 pharmaceutical manufacturers. Percent of total revenue attributable to top 20 pharmaceutical manufacturers is calculated by taking the total revenue the company recognized through pharmaceutical manufacturers listed in Fierce Pharma's "The top 20 pharma companies by 2020 revenue" over the last twelve months, divided by our consolidated revenue over the same period. The Company uses this metric to monitor its progress in "landing and expanding" with key customers within its largest customer vertical and believes it also provides investors with a transparent way to chart our progress in penetrating this important customer segment. Our revenue from customers that aren't top 20 pharmaceutical manufacturers increased faster than our overall revenue, decreasing the percentage of our overall revenues from top 20 pharmaceutical manufacturers.

	Twelve Months Ended December 31	
	2022	**2021**
Percent of total revenue attributable to top 20 pharmaceutical manufacturers	62%	77%

Net revenue retention. Net revenue retention is a comparison of revenue generated from all customers in the previous twelve-month period to total revenue generated from the same customers in the following twelve-month period (i.e., excludes new customer relationships for the most recent twelve-month period). The Company uses this metric to monitor its ability to improve its penetration with existing customers and believes it also provides investors with a metric to chart our ability to increase our year-over-year penetration and revenue with existing customers. The retention rate in 2022 decreased due to the convergence of numerous macroeconomic factors that resulted in our customers slowing their rate of spend, particularly for large and/or new implementations, which we believe prolonged sales cycles.

	Twelve Months Ended December 31	
	2022	**2021**
Net revenue retention	90%	127%

Revenue per average full-time employee. We define revenue per average full-time employee as total revenue over the last twelve months divided by the average number of employees over the last twelve months (i.e., the average between the number of FTEs at the end of the reported period and the number of FTEs at the end of the same period of the prior year). The Company uses this metric to monitor the productivity of its workforce and its ability to scale efficiently over time and believes the metric provides investors with a way to chart our productivity and scalability. Our revenue rate per employee declined year over year due to slower revenue growth and a higher average number of FTEs over the last 12 month period.

	Twelve Months Ended December 31	
	2022	**2021**
Revenue per average full-time employee	$ 606,312	$ 729,674

Results of Operations for the Years Ended December 31, 2022 and 2021

The following table sets forth, for the periods indicated, the dollar value and percentage of total return represented by certain items in our consolidated statements of operations:

	Years Ended December 31,			
(in thousands, except percentage data)	**2022**		**2021**	
Total Revenue	$ 62,450	100.0%	$ 61,293	100.0%
Cost of Revenues	23,483	37.6%	25,654	41.9%
Gross margin	38,967	62.4%	35,638	58.1%
Operating expenses	51,258	82.1%	35,277	57.6%
Income (loss) from operations	(12,291)	(19.7)%	361	0.6%
Other income	852	1.4%	17	—%
Income (loss) before provision for income taxes	(11,438)	(18.3)%	378	0.6%
Income tax benefit	—	—%	—	—%
Net income (loss)	$ (11,438)	(18.3)%	$ 378	0.6%

* Balances and percentage of total revenue information may not add due to rounding

Net Revenue

Our net revenue increased 2% to $62.5 million for the year ended December 31, 2022 from $61.3 million for the year ended December 31, 2021. This increase resulted from increases in sales of our access solutions.

Cost of Revenues

Our total cost of revenues, composed primarily of revenue share expense paid to our network partners, decreased in the year ended December 31, 2022 compared to the year ended December 31, 2021. Our cost of revenues as a percentage of revenue decreased to approximately 38% in the year ended December 31, 2022 from approximately 42% in the year ended December 31, 2021. This decrease in our cost of revenues as a percentage of revenue resulted primarily due to favorable solution and channel partner mix and increases in the type of services we provide that are not subject to revenue share.

Gross Margin

Our gross margin, which is the difference between our revenues and our cost of revenues, increased from 2021 to 2022 as a result of solution mix. In general, during 2022, there was an increase in the percentage of activity flowing through our lower cost channels compared with 2021. Additionally, revenue increases in our access solutions includes a much higher percentage of program design, which carries a higher margin than the delivery of the actual messages. In addition, our gross margin percentage increased to 62% in 2022 from 58% in 2021 for the reasons discussed above in the cost of revenues section.

Operating Expenses

Operating expenses increased to $51.3 million for the year ended December 31, 2022, from $35.3 million for the year ended December 31, 2021, an increase of approximately 45%. The increase in sales, general and administrative expense was $5.8 million. The detail by major category is reflected in the table below.

	Years Ended December 31	
	2022	**2021**
Stock-based compensation	$ 15,745,822	$ 5,491,957
Depreciation and amortization	2,022,029	2,086,454
Other sales, general, and administrative expense	33,489,707	27,698,703
Total Operating Expense	$ 51,257,558	$ 35,277,114

Within the operating expenses, there were a variety of increases, the largest of which was in stock-based compensation, a non-cash expense, which increased by $10.3 million from $5.5 million in 2021 to $15.7 million in 2022. Stock-based compensation is awarded to all full-time employees upon their start of employment as well as to directors, officers and certain key employees to provide an equity-based incentive to maintain and enhance the performance and profitability of the Company. In the fourth quarter of 2021, we issued a significant market-based grant with a requisite service period of less than 3 years. The expense for the market-based award is amortized over the expected service period. The impact on 2022 expense for such market-based award in 2022 was $6.1 million.

The increase in other sales, general, and administrative expense is due to higher salaries, wages, and benefits and other human resources related costs as a result of the expansion of, and investment in, our team to support additional growth. During 2022, we hired 12 net additional employees.

Net Income (Loss)

We finished the year ended December 31, 2022 with a net loss of $11.4 million, compared to net income of $0.4 million during the year ended December 31, 2021. The reasons for specific components are discussed above. Overall, we had an increase in revenue and gross margin partially offset by increased operating expenses. In addition, the income or loss in both periods included significant noncash items. We had $18.0 million in noncash operating expenses in 2022 compared to $7.6 million in noncash operating expenses in 2021.

Liquidity and Capital Resources

Historically, our primary sources of liquidity have been cash receipts from customers and proceeds from equity offerings. As of December 31, 2022, we had total current assets of $98.6 million, compared with current liabilities of $8.4 million, resulting in working capital of $90.2 million and a current ratio of 12 to 1. This compares with a working capital balance of $105.7 million and a current ratio of 12 to 1 at December 31, 2021. This decrease in working capital, as discussed in more detail below, is primarily the result of the common stock buyback program.

Following is a table with summary data from the consolidated statement of cash flows for the years ended December 31, 2022 and 2021, as presented.

	2022	2021
Net cash provided by operating activities	$ 10,654,078	726,039
Net cash used in investing activities	(58,176,386)	(485,999)
Net cash (used in) / provided by financing activities	(18,950,777)	73,924,954
Net (decrease) / increase in cash and cash equivalents	$ (66,473,085)	$ 74,164,994

Our operating activities provided $10.7 million in the year ended December 31, 2022, as compared with approximately $0.7 million provided by operating activities in the year ended December 31, 2021. We had a net loss of $11.4 million for 2022, but non-cash expenses of $18.1 million and working capital generated by the collection of receivables offset the loss. The cash provided in 2021 was the result of our net income and non-cash expenses, which together totaled $8.0 million. This was partially offset by the increased working capital, totaling $7.3 million, required to support higher revenues.

We used $58.2 million in investing activities in 2022, compared with $0.5 million in 2021. In addition to the $2.0 million investment in EvinceMed technology, we purchased $55.9 million in Treasury bills in 2022 with maturity dates in 2023. The 2021 amount included $0.4 million of capitalized software development costs related to our proprietary systems and $0.1 million of tangible property, primarily personal computers.

We used $19.0 million in financing activities in the year ended December 31, 2022. We repurchased 1,214,398 shares of common stock for $20.0 million. This was partially offset by the collection of $1.1 million related to the exercise of stock options during the period. The cash provided in 2021 was the result of our underwritten offering in 2021, which generated $70.7 million, as well as from the proceeds of option exercises, which generated $4.9 million. This was partially offset by the payment of contingent consideration related to previous acquisitions of $1.6 million.

We believe that funds generated from operations, together with existing cash and short term investments, will be sufficient to finance our current operations and planned growth for the next twelve months. We do not anticipate the need to raise any additional cash to support operations. However, we could require additional debt or equity financing if we were to make any significant acquisitions for cash during that period. In addition, we believe we can generate the cash needed to operate beyond the next 12 months from operations.

Off Balance Sheet Arrangements

As of December 31, 2022, there were no off-balance sheet arrangements.

Critical Accounting Estimates

Our discussion and analysis of our financial condition and results of operations are based upon the Consolidated Financial Statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements requires us to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the periods presented. Actual results could differ from those estimates and assumptions. See Note 2 to the Consolidated Financial Statements for a discussion of significant accounting policies. Actual results may differ materially from these estimates due to different assumptions or conditions. The following areas all require the use of subjective or complex judgments, estimates and assumptions:

Revenue Recognition

Recognition of revenue requires evidence of a contract, probable collection of proceeds, and completion of substantially all performance obligations. We use a 5-step model to recognize revenue. These steps are: identify the contract with a customer, identify the performance obligations in the contract, determine the transaction price, allocate the transaction price to the performance obligations in the contract, and recognize revenue when or as the performance obligations are satisfied.

Revenues are primarily generated from content delivery activities in which we deliver financial, clinical, or brand messaging through a distribution network of eprescribers and electronic health record technology providers (channel partners), directly to consumers, or from reselling services that complement the business. This content delivery for a customer is referred to as a program. Unless otherwise specified, revenue is recognized based on the selling price to customers.

Our contracts are generally all less than one year and the primary performance obligation is delivery of messages or other forms of content, but the contract may contain additional services. Additional services may include program design, which is the design of the content delivery program, set up, and reporting. We consider set up and reporting services to be complimentary to the primary performance obligation and recognized through performance of the delivery of content. We consider the design of the programs and related consulting services to be performance obligations separate from the delivery of messages.

As the content is distributed through the platform and network of channel partners (a transaction), these transactions are recorded, and revenue is recognized, over time as the distributions occur. Revenue for transactions can be realized based on a price per message, a price per redemption, as a flat fee occurring over a period of time, or upon completion of the program, depending on the client contract. We recognize setup fees that are required for integrating client offerings and campaigns into the rule-based content delivery system and network over the life of the initial program, based either on time, or units delivered, depending upon which is most appropriate in the specific situation. Should a program be cancelled before completion, the balance of set up revenue is recognized at the time of cancellation, as set up fees are nonrefundable. Additionally, we also recognize revenue for providing program performance reporting and maintenance, either by our company directly delivering reports or by providing access to our online reporting portal that the client can utilize. This reporting revenue is recognized over time as the messages are delivered. Program design, which is the design of the content delivery program, and related consulting services are recognized as services are performed.

In some instances, we license certain of our software applications in arrangements that do not include other performance obligations. In those instances, we record license revenue when the software is delivered for use to the license. In instances where our contracts included Software as a Service, the revenue is recognized over the subscription period as services are delivered to the customer.

In some instances, we also resell messaging solutions that are available through channel partners that are complementary to the core business and client base. These partner specific solutions are frequently similar to our own solutions and revenue recognition for these programs is the same as described above. In instances where we sell solutions on a commission basis, net revenue is recognized based on the commission-based revenue split that we receive. There were no programs recorded on a net basis in the years presented. In instances where we resell these messaging solutions and have all financial risk and significant operation input and risk, we record the revenue based on the gross amount sold and the amount paid to the channel partner as a cost of sales.

Cost of Revenues

The primary cost of revenue is revenue share expense. Based on the volume of transactions that are delivered through the channel partner network, we provide a revenue share to compensate the partner for their promotion of the campaign. Revenue shares are a negotiated percentage of the transaction fees and can also be specific to special considerations and campaigns. In addition, we pay revenue share to ConnectiveRx as a result of a 2014 legal settlement in an amount equal to the greater of 10% of financial messaging distribution revenues generated through our integrated network, or $0.37 per financial message distributed through our integrated network. As our solution mix has expanded and our revenues have grown, financial messaging has become a smaller percentage of our revenues and these payments to ConnectiveRx, a smaller portion of our revenue share. The contractual amount due to the channel partners is recorded as an expense at the time the message is distributed.

Intangible Assets

Intangible assets are stated at cost. Finite-lived assets are being amortized over their estimated useful lives of fifteen to seventeen years for patents, eight years for customer relationships, fifteen years for tradenames, two to four years for covenants not to compete, and three to ten years for software and websites, all using the straight-line method. These assets are evaluated when there is a triggering event. There was no impairment of our intangible assets in either year presented.

Goodwill

We evaluate goodwill for impairment during our fiscal fourth quarter, or more frequently if an event occurs or circumstances change. We determined there was no impairment as goodwill had a fair value comfortably in excess of its carrying value.

Stock-based Compensation

We use the fair value method to account for stock-based compensation. The fair value of the equity instrument is charged directly to compensation expense and additional paid-in capital over the period during which services are rendered. The fair value of each award is estimated on the date of each grant.

For options, fair value is estimated using the Black-Scholes option pricing model that uses the following assumptions. Estimated volatilities are based on the historical volatility of our stock over the same period as the expected term of the options. The expected term of options granted represents the period of time that options granted are expected to be outstanding. We use historical data to estimate option exercise behavior and to determine this term. The risk-free rate used is based on the U.S. Treasury yield curve in effect at the time of the grant using a time period equal to the expected option term. We have never paid dividends and do not expect to pay any dividends in the future.

The Black-Scholes option valuation model and other existing models were developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. These option valuation models require the input of, and are highly sensitive to, subjective assumptions including the expected stock price volatility. Our stock options have characteristics significantly different from those of traded options, and changes in the subjective input assumptions could materially affect the fair value estimate.

For restricted stock units, the fair value is based on the market value of the Company's common stock on the date of grant. For market based restricted stock units, fair value is estimated using a Monte Carlo simulation model. This valuation technique includes estimating the movement of stock prices and the effects of volatility, interest rates and dividends.

Recently Issued Accounting Pronouncements

In December 2019, the FASB issued ASU No. 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*. ASU 2019-12 is intended to improve consistent application and simplify the accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and clarifies and amends existing guidance. ASU 2019-12 was effective for us as of January 1, 2021. The adoption of this standard did not have a material effect on our financial position, results of operations, or cash flows.

Not Yet Adopted

ASU Topic 2021-08 *Business Combinations (Topic 805), Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires contract assets and contract liabilities acquired in a business combination to be recognized and measured by the acquirer on the acquisition date in accordance with ASC 606, Revenue from Contracts with Customers, as if it had originated the contracts. The standard is effective for the Company's fiscal year beginning January 1, 2023, with early adoption permitted. The adoption of this standard is not expected to have a material effect on our financial position, results of operations, or cash flows.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Not applicable.

Item 8. Financial Statements and Supplementary Data

Index to Financial Statements Required by Article 8 of Regulation S-X:

Audited Financial Statements:

Report of Independent Registered Public Accounting Firm

To the Shareholders and Board of Directors of
OptimizeRx Corporation

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of OptimizeRx Corporation and Subsidiaries (the "Company") as of December 31, 2022 and 2021, and the related consolidated statements of operations, stockholders' equity and cash flows for the years then ended, and the related notes (collectively referred to as the consolidated financial statements).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These consolidated financial statements are the responsibility of Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audit, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audit included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audit provides a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the consolidated financial statements and (2) involved especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which they related.

Critical Audit Matter - Revenue Recognition

As disclosed in Note 2 to the consolidated financial statements, the Company recognizes revenue upon transfer of control of promised products or services to customers in an amount that reflects the consideration the Company expects to receive in exchange for those products or services.

Significant judgment is exercised by the Company in determining revenue recognition for these customer agreements and includes the following: (1) determining whether services are considered distinct performance obligations that should be accounted for separately versus together, (2) the pattern and timing of delivery for each distinct performance obligation, and (3) identification and treatment of contract terms that may impact the timing and amount of revenue recognized.

How the Critical Audit Matter Was Addressed in the Audit

The audit procedures we performed to address this critical audit matter included the following: (1) obtaining an understanding of the design and implementation of controls related to identifying distinct performance obligations, determining the timing of revenue recognition and any estimation of variable consideration, (2) selection of a sample of customer agreements and testing management's identification and treatment of contract terms, and (3) testing the mathematical accuracy of management's calculations of revenue and the associated timing of revenue recognized in the consolidated financial statements.

We have served as the Company's auditor since 2020.

/s/ UHY LLP

Sterling Heights, Michigan
March 10, 2023
Firm ID: 1195

OPTIMIZERx CORPORATION
Consolidated Balance Sheets

	December 31, 2022	December 31, 2021
ASSETS		
Current Assets		
Cash and cash equivalents	$ 18,208,685	$ 84,681,770
Short-term investments	55,931,821	—
Accounts receivable, net	22,155,301	24,800,585
Prepaid expenses and other	2,280,828	5,630,655
Total Current Assets	98,576,635	115,113,010
Property and equipment, net	137,448	143,818
Other Assets		
Goodwill	22,673,820	14,740,031
Technology assets, net	7,702,895	4,589,126
Patent rights, net	1,940,178	2,155,026
Right of use assets, net	235,320	328,820
Other intangible assets, net	3,379,838	3,902,502
Security deposits and other assets	5,051	12,859
Total Other Assets	35,937,102	25,728,364
TOTAL ASSETS	$ 134,651,185	$ 140,985,192
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Accounts payable – trade	$ 1,549,979	$ 606,808
Accrued expenses	2,601,246	2,902,836
Revenue share payable	3,990,440	4,378,216
Current portion of lease liabilities	89,902	90,982
Deferred revenue	164,309	1,389,907
Total Current Liabilities	8,395,876	9,368,749
Non-current Liabilities		
Lease liabilities, net of current portion	144,532	236,726
Total Liabilities	8,540,408	9,605,475
Commitments and contingencies (See Note 15)		
Stockholders' Equity		
Preferred stock, $0.001 par value, 10,000,000 shares authorized, none issued and outstanding at December 31, 2022 and 2021, respectively	—	—
Common stock, $0.001 par value, 166,666,667 shares authorized, 18,288,571 and 17,860,975 shares issued at December 31, 2022 and 2021, respectively	18,289	17,861
Treasury stock, $0.001 par value, 1,214,398 and none held at December 31, 2022 and 2021, respectively	(1,214)	—
Additional paid-in-capital	172,785,800	166,615,514
Accumulated deficit	(46,692,098)	(35,253,658)
Total Stockholders' Equity	126,110,777	131,379,717
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	$ 134,651,185	$ 140,985,192

The accompanying notes are an integral part of these financial statements.

OPTIMIZERx CORPORATION
Consolidated Statements of Operations

	For the year ended December 31, 2022	For the year ended December 31, 2021
Net revenue	$ 62,450,156	$ 61,292,598
Cost of revenues	23,483,336	25,654,384
Gross margin	38,966,820	35,638,214
Operating Expenses		
Stock-based compensation	15,745,822	5,491,957
Depreciation, amortization, and noncash lease expense	2,022,029	2,086,454
Other general and administrative expenses	33,489,707	27,698,703
Total operating expenses	51,257,558	35,277,114
Income (loss) from operations	(12,290,738)	361,100
Other income		
Interest income	852,298	16,979
Income (loss) before provision for income taxes	(11,438,440)	378,079
Income tax benefit	—	—
Net income (loss)	$ (11,438,440)	$ 378,079
Weighted average number of shares outstanding – basic	17,783,992	17,228,019
Weighted average number of shares outstanding – diluted	17,783,992	17,690,489
Income (loss) per share – basic	$ (0.64)	$ 0.02
Income (loss) per share – diluted	$ (0.64)	$ 0.02

The accompanying notes are an integral part of these financial statements.

OPTIMIZERx CORPORATION
Consolidated Statement of Stockholders' Equity for the Year Ended December 31, 2022

	Common Stock		Treasury Stock		Additional Paid-in	Accumulated	
	Shares	Amount	Shares	Amount	Capital	Deficit	Total
Balance, January 1, 2022	17,860,975	$ 17,861	—	$ —	$ 166,615,514	$ (35,253,658)	$ 131,379,717
Stock-based compensation expense							
Options	—	—	—	—	4,956,619	—	4,956,619
Restricted Stock	—	—	—	—	10,789,203	—	10,789,203
Issuance of common stock:							
For stock options exercised	156,910	157	—	—	1,205,724	—	1,205,881
For acquisition	240,741	241	—	—	9,374,214	—	9,374,455
For restricted stock units vested, net of cancelled units	29,945	30	—	—	(132,430)	—	(132,400)
Repurchase of common stock	—	—	(1,214,398)	1,214	(20,023,044)	—	(20,021,830)
Net loss for the year	—	—	—	—	—	(11,438,440)	(11,438,440)
Balance, December 31, 2022	18,288,571	$ 18,289	(1,214,398)	$ 1,214	$ 172,785,800	$ (46,692,098)	$ 126,110,777

The accompanying notes are an integral part of these financial statements.

OPTIMIZERx CORPORATION
Consolidated Statement of Stockholders' Equity for the Year Ended December 31, 2021

	Common Stock		Additional Paid-in	Accumulated	
	Shares	Amount	Capital	Deficit	Total
Balance, January 1, 2021	15,223,340	$ 15,223	$ 85,590,428	$ (35,631,737)	$ 49,973,914
Stock-based compensation expense					
Options	—	—	2,709,781	—	2,709,781
Restricted Stock	—	—	2,532,091	—	2,532,088
Issuance of common stock:					
For board compensation	4,730	5	250,080	—	250,085
For stock options exercised	1,105,822	1,106	4,863,125	—	4,864,231
Public offering of common shares, net of offering costs	1,523,750	1,524	70,670,012	—	70,671,536
For restricted stock units vested	3,333	3	(3)	—	3
Net income for the year	—	—	—	378,079	378,079
Balance, December 31, 2021	17,860,975	$ 17,861	$ 166,615,514	$ (35,253,658)	$ 131,379,717

The accompanying notes are an integral part of these financial statements.

OPTIMIZERx CORPORATION
Consolidated Statements of Cash Flows

	For the year ended December 31, 2022	For the year ended December 31, 2021
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net (loss) income	$ (11,438,440)	$ 378,079
Adjustments to reconcile net (loss) income to net cash provided by operating activities:		
Depreciation and amortization	2,022,029	1,965,325
Increase in bad debt reserve	363,512	80,000
Stock-based compensation	15,745,822	5,491,957
Changes in:		
Accounts receivable	2,281,773	(6,994,880)
Prepaid expenses and other assets	2,650,951	(1,174,044)
Accounts payable	943,171	(11,442)
Revenue share payable	(387,776)	(591,652)
Accrued expenses and other liabilities	(301,592)	482,475
Change in operating lease liabilities	226	(3,891)
Deferred revenue	(1,225,598)	1,104,112
NET CASH PROVIDED BY OPERATING ACTIVITIES	10,654,078	726,039
CASH FLOWS USED IN INVESTING ACTIVITIES:		
Purchases of property and equipment	(81,005)	(100,322)
EvinceMed acquisition	(2,000,000)	—
Purchase of short-term investments	(55,931,821)	—
Acquisition of intangible assets, including intellectual property rights	(1,830)	(21,511)
Capitalized software development costs	(161,730)	(364,166)
NET CASH USED IN INVESTING ACTIVITIES	(58,176,386)	(485,999)
CASH FLOWS (USED IN) / PROVIDED BY FINANCING ACTIVITIES:		
Proceeds from public offering of common stock, net of offering costs	—	70,671,536
Repurchase of common stock	(20,024,258)	—
Proceeds from exercise of stock options, net of cash paid for withholding taxes	1,073,481	4,864,231
Payment of contingent consideration	—	(1,610,813)
NET CASH (USED IN) / PROVIDED BY FINANCING ACTIVITIES	(18,950,777)	73,924,954
NET (DECREASE) / INCREASE IN CASH AND CASH EQUIVALENTS	(66,473,085)	74,164,994
CASH AND CASH EQUIVALENTS – BEGINNING OF PERIOD	84,681,770	10,516,776
CASH AND CASH EQUIVALENTS – END OF PERIOD	$ 18,208,685	$ 84,681,770
SUPPLEMENTAL CASH FLOW INFORMATION:		
Cash paid for interest	$ —	$ —
Reduction of EvinceMed purchase price for amounts previously paid	$ 708,334	$ —
Shares issued in connection with acquisition	$ 9,374,455	$ —
Cash paid for income taxes	$ —	$ —

The accompanying notes are an integral part of these financial statements.

NOTE 1 – ORGANIZATION AND NATURE OF BUSINESS

OptimizeRx is a digital health technology company enabling care-focused engagement between life sciences organizations, healthcare providers, and patients at critical junctures throughout the patient care journey. Connecting over 60% of U.S. healthcare providers and millions of their patients through an intelligent technology platform embedded within a proprietary point-of-care network, OptimizeRx helps patients start and stay on their medications.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The financial statements of the Company have been prepared in accordance with generally accepted accounting principles in the United States of America and are presented in US dollars.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Estimates and assumptions have been made in determining the carrying value of assets, depreciable and amortizable lives of tangible and intangible assets, the carrying value of liabilities, the valuation allowance for the deferred tax asset, the timing of revenue recognition and related revenue share expenses, and inputs used in the calculation of stock based compensation. Actual results could differ from these estimates.

Principles of Consolidation

The financial statements reflect the consolidated results of OptimizeRx Corporation, a Nevada corporation, and its wholly owned subsidiaries: OptimizeRx Corporation, a Michigan corporation, CareSpeak Communications, Inc., a New Jersey corporation, Cyberdiet, a controlled foreign corporation incorporated in Israel, and CareSpeak Communications D.O.O., a Controlled Foreign Corporation incorporated in Croatia. Together, these companies are referred to as "OptimizeRx" and "the Company." All material intercompany transactions have been eliminated.

Reclassifications

Certain items in the previous year financial statements have been reclassified to match the current year presentation.

Foreign Currency

The Company's functional currency is the U.S. dollar, however it pays certain expenses related to its two foreign subsidiaries in the local currency, which is the shekel for its subsidiary in Israel and the kuna for its Croatian subsidiary. All transactions are recorded at the exchange rate at the time of payment. If there is a time lag between the time of recording the liability and the time of payment, a gain or loss is recorded in the Consolidated Statement of Operations due to any fluctuations in the exchange rate.

Cash and Cash Equivalents

For purposes of the accompanying financial statements, the Company considers all highly liquid instruments, consisting of money market accounts, with an initial maturity of three months or less to be cash equivalents.

Investments

We account for marketable securities in accordance with ASC 320, "Investments - Debt Securities", which require that certain debt securities be classified into one of three categories: held-to-maturity, available-for-sale, or trading securities, and depending upon the classification, value the security at amortized cost or fair market value.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Fair Value of Financial Instruments

Fair value is defined as the price that would be received upon sale of an asset or paid upon transfer of a liability in an orderly transaction between market participants at the measurement date and in the principal or most advantageous market for that asset or liability. The fair value should be calculated based on assumptions that market participants would use in pricing the asset or liability, not on assumptions specific to the entity. In addition, the fair value of liabilities should include consideration of non-performance risk including our own credit risk.

In addition to defining fair value, the disclosure requirements around fair value establish a fair value hierarchy for valuation inputs, which is expanded. The hierarchy prioritizes the inputs into three levels based on the extent to which inputs used in measuring fair value are observable in the market. Each fair value measurement is reported in one of the three levels, which is determined by the lowest level input that is significant to the fair value measurement in its entirety. These levels are:

Level 1 – Inputs are based upon unadjusted quoted prices for identical instruments traded in active markets.

Level 2 – Inputs are based upon significant observable inputs other than quoted prices included in Level 1, such as quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 – Inputs are generally unobservable and typically reflect management's estimates of assumptions that market participants would use in pricing the asset or liability. The fair values are therefore determined using model-based techniques that include option pricing models, discounted cash flow models, and similar techniques. The Company's stock options and warrants are valued using level 3 inputs.

The Company's carrying amounts of financial instruments including cash and cash equivalents, accounts receivable, accounts payable, and other current liabilites approximate their fair values due to their short maturities.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are reported at realizable value, net of allowances for doubtful accounts, which is estimated and recorded in the period the related revenue is recorded. The Company has a standardized approach to estimate and review the collectability of its receivables based on a number of factors, including the period they have been outstanding. Historical collection and payer reimbursement experience is an integral part of the estimation process related to allowances for doubtful accounts. In addition, the Company regularly assesses the state of its billing operations in order to identify issues, which may impact the collectability of these receivables or reserve estimates. Because the Company's customers are primarily large well-capitalized companies, historically there has been very little bad debt expense. Bad debt expense was $363,512 for the year ended December 31, 2022 and $80,000 for the year ended December 31, 2021. The allowance for doubtful accounts was $352,043 and $241,219 as of December 31, 2022 and 2021, respectively. From time to time, we may record revenue based on our revenue recognition policies described below in advance of being able to invoice the customer. Included in accounts receivable are unbilled amounts of $3,582,735,$2,110,865 and $757,218 at December 31, 2022, 2021 and 2020, respectively.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Property and Equipment

Property and equipment are stated at cost and are being depreciated over their estimated useful lives of three to five years for office equipment and three years for computer equipment using the straight-line method of depreciation for book purposes. Maintenance and repair charges are expensed as incurred.

Intangible Assets

Intangible assets are stated at cost. Finite-lived assets are being amortized over their estimated useful lives of fifteen to seventeen years for patents, eight years for customer relationships, fifteen years for tradenames, two to four years for covenants not to compete, and three to ten years for software and websites, all using the straight-line method. These assets are evaluated when there is a triggering event. There was no impairment of our intangible assets in either year presented.

Goodwill

We evaluate goodwill for impairment during our fiscal fourth quarter, or more frequently if an event occurs or circumstances change. Our analysis determined that there was no impairment of our goodwill.

Revenue Recognition

Recognition of revenue requires evidence of a contract, probable collection of proceeds, and completion of substantially all performance obligations. We use a 5-step model to recognize revenue. These steps are: identify the contract with a customer, identify the performance obligations in the contract, determine the transaction price, allocate the transaction price to the performance obligations in the contract, and recognize revenue when or as the performance obligations are satisfied.

Revenues are primarily generated from content delivery activities in which the Company delivers financial, clinical, or brand messaging through a distribution network of eprescribers and electronic health record technology providers (channel partners), directly to consumers, or from reselling services that complement the business. This content delivery for a customer is referred to as a program. Unless otherwise specified, revenue is recognized based on the selling price to customers.

The Company’s contracts are generally all less than one year and the primary performance obligation is delivery of messages, or content, but the contract may contain additional services. Additional services may include program design, which is the design of the content delivery program, set up, and reporting. We consider set up and reporting services to be complimentary to the primary performance obligation and recognized through performance of the delivery of content. We consider program design and related consulting services to be performance obligations separate from the delivery of messages.

As the content is distributed through the platform and network of channel partners (a transaction), these transactions are recorded, and revenue is recognized over time as the distributions occur. Revenue for transactions can be realized based on a price per message, a price per redemption, as a flat fee occurring over a period of time, or upon completion of the program, depending on the client contract. The Company recognizes setup fees that are required for integrating client offerings and campaigns into the rule-based content delivery system and network over the life of the initial program, based either on time, or units delivered, depending upon which is most appropriate in the specific situation. Should a program be cancelled before completion, the balance of set up revenue is recognized at the time of cancellation, as set up fees are nonrefundable. Additionally, the Company also recognizes revenue for providing program performance reporting and maintenance, either by the Company directly delivering reports or by providing access to its online reporting portal that the client can utilize. This reporting revenue is recognized over time as the messages are delivered. Program design, which is the design of the content delivery program, and related consulting services are recognized as services are performed.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Disaggregation of Revenue

Consistent with ASC Topic 606, we have disaggregated our revenue by timing of revenue recognition. The majority of our revenue is recognized over time as solutions are provided. A small portion of our revenue related to program development, solution architect design, and other solutions is recognized at a point in time upon delivery to customers. A break down is set forth in the table below.

	2022	2021
Revenue recognized over time	$ 55,437,418	$ 57,077,743
Revenue recognized at a point in time	7,012,738	4,214,855
Total Revenue	$ 62,450,156	$ 61,292,598

Revenue Recognition (Continued)

In some instances, we license certain of our software applications in arrangements that do not include other performance obligations. In those instances, we record license revenue when the software is delivered for use to the license. In instances where our contracts included Software as a Service, the revenue is recognized over the subscription period as services are delivered to the customer.

In some instances, the Company also resells messaging solutions that are available through channel partners that are complementary to the core business and client base. These partner specific solutions are frequently similar to our own solutions and revenue recognition for these programs is the same as described above. In instances where the Company sells solutions on a commission basis, net revenue is recognized based on the commission-based revenue split that the Company receives. There were no programs recorded on a net basis in the years presented. In instances where the Company resells these messaging solutions and has all financial risk and significant operation input and risk, the Company records the revenue based on the gross amount sold and the amount paid to the channel partner as a cost of sales.

Cost of Revenues

The primary cost of revenue is revenue share expense. Cost of revenues does not include depreciation and amortization which is listed separately on the statements of operations. Based on the volume of transactions that are delivered through the channel partner network, the Company provides a revenue share to compensate the partner, or others, for their promotion of the campaign. Revenue shares are a negotiated percentage of the transaction fees and can also be specific to special considerations and campaigns.

Income Taxes

Income taxes are computed using the asset and liability method. Under the asset and liability method, deferred income tax assets and liabilities are determined based on the differences between the financial reporting and tax basis of assets and liabilities and are measured using the currently enacted tax rates and laws. A valuation allowance is provided for the amount of deferred tax assets that, based on available evidence, are not expected to be realized.

The Company recognizes the tax benefit from uncertain tax positions if it is more likely than not that the tax positions will be sustained on examination by the tax authorities, based on the technical merits of the position. The tax benefit is measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. It is the Company's policy to include interest and penalties related to tax positions as a component of income tax expense.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Concentration of Credit Risks

The Company maintains its cash and cash equivalents in bank deposit accounts, which, at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts; however, amounts in excess of the federally insured limit may be at risk if the bank experiences financial difficulties. As of December 31, 2022 and 2021 the Company had $15,669,837 and $83,312,524, respectively, in cash balances in excess of federally insured limits, primarily at Bank of America.

Research and Development

The Company expenses research and development expenses as incurred. There was no research and development expense for the years ended December 31, 2022 and 2021.

Stock-based Compensation

The Company uses the fair value method to account for stock-based compensation. The fair value of the equity instrument is charged directly to compensation expense and additional paid-in capital over the period during which services are rendered. The fair value of each award is estimated on the date of each grant.

For restricted stock awards, the fair value is based on the market value of the Company's common stock on the date of grant. For market based restricted stock units, the fair value is estimated using a Monte Carlo simulation model. This valuation technique includes estimating the movement of stock prices and the effects of volatility, interest rates and dividends.

For options, fair value is estimated using the Black-Scholes option pricing model that uses the following assumptions. Estimated volatilities are based on the historical volatility of the Company's common stock over the same period as the expected term of the options. The expected term of options granted represents the period of time that options granted are expected to be outstanding. The Company uses historical data to estimate option exercise behavior and to determine this term. The risk-free rate used is based on the U.S. Treasury yield curve in effect at the time of the grant using a time period equal to the expected option term. The Company has never paid dividends and do not expect to pay any dividends in the future.

	2022	2021
Expected dividend yield	0%	0%
Risk free interest rate	0.82% - 4.38%	0.19% - 0.67%
Expected option term	3.5 years	3.5 years
Turnover/forfeiture rate	0%	0%
Expected volatility	68% - 71%	67% - 70%
Weighted average grant date fair value	$ 12.82	$ 26.36

The Black-Scholes option valuation model and other existing models were developed for use in estimating the fair value of traded options that have no vesting restrictions and are fully transferable. These option valuation models require the input of, and are highly sensitive to, subjective assumptions including the expected stock price volatility. The Company's stock options have characteristics significantly different from those of traded options, and changes in the subjective input assumptions could materially affect the fair value estimate.

Loss Per Common and Common Equivalent Share

The computation of basic (loss) earnings per common share is computed using the weighted average number of common shares outstanding during the year. The computation of diluted (loss) earnings per common share is based on the basic weighted average number of shares outstanding during the year plus common stock equivalents, which would arise from the exercise of options and warrants outstanding using the treasury stock method and the average market price per share during the year. The number of common shares potentially issuable upon the exercise of certain awards that were excluded from the diluted loss per common share calculation in 2022 was 93,626 related to options, and 170,859 related to restricted stock units, for a total of 264,485 because they are anti-dilutive, as a result of a net loss for the year ended December 31, 2022.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

The computation of weighted average shares outstanding and the basic and diluted earnings per common share for the years ended December 31, 2022 and 2021 consisted of the following:

	Year ended December 31, 2022		
	Net (Loss)	Shares	Per Share Amount
Basic EPS	$ (11,438,440)	17,783,992	$ (0.64)
Effect of dilutive securities	—	—	—
Diluted EPS	$ (11,438,440)	17,783,992	$ (0.64)

	Year ended December 31, 2021		
	Net Income	Shares	Per Share Amount
Basic EPS	$ 378,079	17,228,019	$ 0.02
Effect of dilutive securities		462,470	—
Diluted EPS	$ 378,079	17,690,489	$ 0.02

Impairment of Long-Lived Assets

The Company continually monitors events and changes in circumstances that could indicate carrying amounts of long-lived assets may not be recoverable. When such events or changes in circumstances are present, the Company assesses the recoverability of long-lived assets by determining whether the carrying value of such assets will be recovered through undiscounted expected future cash flows. If the total of the future cash flows is less than the carrying amount of those assets, the Company recognizes an impairment loss based on the excess of the carrying amount over the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or the fair value less costs to sell.

Segment reporting

We operate in one reportable segment. Overall, our business involves connecting life science companies to patients and providers. We have a common customer base for all of our solutions, which are primarily all communications with healthcare providers or patients on behalf of life science customers. Our customers are geographically located in the U.S although we have two technology centers located internationally. We do not prepare separate internal income statements by solutions as our focus is on selling enterprise arrangements covering multiple solutions that span the entire patient journey with a specific brand.

Recently Issued Accounting Guidance

In December 2019, the FASB issued ASU No. 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*. ASU 2019-12 is intended to improve consistent application and simplify the accounting for income taxes. ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and clarifies and amends existing guidance. ASU 2019-12 was effective for us as of January 1, 2021. The adoption of this standard did not have a material effect on our financial position, results of operations, or cash flows.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Not Yet Adopted

ASU Topic 2021-08 *Business Combinations (Topic 805), Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires contract assets and contract liabilities acquired in a business combination to be recognized and measured by the acquirer on the acquisition date in accordance with ASC 606, Revenue from Contracts with Customers, as if it had originated the contracts. The standard is effective for the Company's fiscal year beginning January 1, 2023, with early adoption permitted. The adoption of this standard is not expected to have a material effect on our financial position, results of operations, or cash flows.

NOTE 3 – ACQUISITIONS

On April 14, 2022, we completed the acquisition of substantially all of the assets of EvinceMed Corp., a privately held leading provider of delivering end-to-end automation for specialty pharmaceutical transactions. We completed the acquisition to expand the breadth of the solutions we offer our customers, particularly where specialty medications are involved, The acquisition included the full Market Access Management Platform for supporting pharma manufacturers, hub providers and pharmacies to improve patient access, speed to therapy and activation of affordability programs. With the EvinceMed platform, OptimizeRx is able to help patients get access to the drugs they need by simplifying the prescribing process for specialty medications, automating manual steps to determine drug eligibility and affordability, and introducing electronic enrollment and medical documentation across the OptimizeRx network of electronic health record (EHR) systems, ePrescribing platforms, and account-based marketing technologies.

The consideration was comprised of $2.0 million in cash, the issuance of 240,741 shares of common stock valued at $9,374,455, and $708,334 of amounts previously paid. The total purchase price was $12,082,789. Of the 240,741 shares of common stock, 185,185 were issued at closing and 55,556 were issued but held back to secure potential adjustments to the purchase price that may result from the indemnification obligations of EvinceMed and the EvinceMed shareholder indemnitors. The holdback amount will be released twelve months from the closing, subject to any adjustments for the payment by EvinceMed and the shareholder indemnitors for its and their indemnification obligations. The purchase price was allocated to acquired technology totaling $4,149,000 with an estimated useful life of 8 years and the remaining $7,933,789 was allocated to goodwill. Goodwill represents the processes and synergies expected by integrating those processes with our own. The full amount of goodwill will be deductible for tax purposes using a 15 year life. The increase in goodwill for the period is fully accounted for by this acquisition. We determined pro forma data was immaterial for financial reporting purposes. The initial accounting is provisional and subject to change based on the completion of formal valuations.

Acquisition costs of approximately $19,739 were expensed as incurred.

NOTE 4 – INVESTMENT SECURITIES

At December 31, 2022 the Company held $55.9 million in U.S. government and agency securities. All securities have maturity dates of less than one year. The Company reports them at amortized cost. The amortized cost approximates fair value at December 31, 2022 due to the short nature of the securities.

There were no securities held at December 31, 2021.

NOTE 5 – PREPAID EXPENSES

Prepaid expenses consisted of the following as of December 31, 2022 and 2021:

	2022	2021
Revenue share and exclusivity payments	$ 1,025,000	$ 4,516,668
Software	408,063	181,044
Insurance	221,580	156,327
Data	152,533	168,462
Other	473,652	608,154
Total prepaid expenses	$ 2,280,828	$ 5,630,655

NOTE 6 – PROPERTY AND EQUIPMENT

The Company owned equipment recorded at cost, which consisted of the following as of December 31, 2022 and 2021:

	2022	2021
Computer equipment	$ 230,467	$ 267,917
Furniture and fixtures	38,500	200,250
	268,967	468,167
Less accumulated depreciation	131,519	324,349
Property and equipment, net	$ 137,448	$ 143,818

Depreciation expense was $85,725 and $105,360 for the years ended December 31, 2022 and 2021, respectively.

NOTE 7 – INTANGIBLE ASSETS

Goodwill

Our goodwill is related to the acquisitions of EvinceMed in 2022, RMDY Health, Inc. in 2019 and CareSpeak Communications in 2018. Goodwill is not amortizable for financial statement purposes.

Changes in the carrying amount of goodwill on the consolidated balance sheet consist of the following:

Balance at January 1, 2021	$ 14,740,031
Acquisitions	-
Impairments	-
Balance January 1, 2022	$ 14,740,031
Revenue recognized	7,933,789
Amount collected	-
Balance December 31, 2022	$ 22,673,820

NOTE 7 – INTANGIBLE ASSETS (CONTINUED)

Intangible Assets

Intangible assets included on the consolidated balance sheets consist of the following:

	December 31, 2022			
	Gross Carrying Amount	Accumulated Amortization	Net	Weighted Average Life Remaining
Patent rights	$ 3,364,729	$ 1,424,551	$ 1,940,178	8.5
Technology assets	12,859,660	5,156,765	7,702,895	5.1
Other intangible assets				
Tradename	3,586,000	776,966	2,809,034	11.7
Non-compete agreements	1,093,000	1,093,000	—	0
Customer relationships	923,000	352,196	570,804	7.4
Total other	5,602,000	2,222,162	3,379,838	
Total intangible assets	$ 21,826,389	$ 8,803,478	$ 13,022,911	

	December 31, 2021			
	Gross Carrying Amount	Accumulated Amortization	Net	Weighted Average Life Remaining
Patent rights	$ 3,362,898	$ 1,207,872	$ 2,155,026	9.6
Technology assets	8,548,930	3,959,804	4,589,126	4.9
Other intangible assets				
Tradename	3,586,000	537,900	3,048,100	12.7
Non-compete agreements	1,093,000	899,635	193,365	0.6
Customer relationships	923,000	261,963	661,037	8.4
Total other	5,602,000	1,699,498	3,902,502	
Total intangible assets	$ 17,513,828	$ 6,867,174	$ 10,646,654	

Intangibles are being amortized on a straight-line basis over the following estimated useful lives.

Patents	15 – 17 years
Tradenames	15 years
Non-compete agreements	2 – 4 years
Customer relationships	8 years
Technology assets	3 – 10 years

NOTE 7 – INTANGIBLE ASSETS (CONTINUED)

The Company recorded amortization expense of $1,936,304 and $1,859,965 in the years ended December 31, 2022 and 2021, respectively. Expected future amortization expense of the intangibles assets as of December 31, 2022 is as follows:

Year ended December 31,	
2023	$ 1,769,212
2024	1,769,212
2025	1,682,054
2026	1,566,184
2027	1,483,765
Thereafter	4,752,484
Total	$ 13,022,911

NOTE 8 – DEFERRED REVENUE

The Company has several signed contracts with customers for the distribution of financial messaging, or other services, which include payment in advance. The payments are not recorded as revenue until the revenue is earned under its revenue recognition policy discussed in Note 2. Deferred revenue was $164,309 and $1,389,907 as of December 31, 2022 and 2021, respectively. These contracts are all short term in nature and all revenue is expected to be recognized within 12 months, or less. Following is a summary of activity in the deferred revenue account for the year ended December 31, 2022.

Balance January 1, 2022	$ 1,389,907
Revenue recognized	(36,346,653)
Amount collected	35,121,055
Balance December 31, 2022	$ 164,309

Following is a summary of activity in the deferred revenue account for the year ended December 31, 2021.

Balance January 1, 2021	$ 285,795
Revenue recognized	(18,006,973)
Amount collected	19,111,085
Balance December 31, 2021	$ 1,389,907

NOTE 9 – RELATED PARTY TRANSACTIONS

During the year ended December 31, 2010, the Company acquired the technical contributions and assignment of all exclusive rights to and for a key patent in process at the time from a former CEO in exchange for a total payment in shares of common stock and options valued at $930,000 at the time of the acquisition and recorded the patent at that cost. That patent remains in Patents on the consolidated balance sheet as of December 31, 2022.

Jim Lang, one of our Board Members, is the CEO of Eversana, a leading global provider of services to the life sciences industry. Eversana is similar to other customers we generate revenue from, such as agencies or resellers. During the years ended December 31, 2022 and 2021, respectively, we have recognized $401,972 and $218,333 in revenue from contracts engaged with Eversana. These contracts were sourced by Eversana on behalf of life science customers of theirs. The contracts are at market rates and were generated in the normal course of business.

NOTE 10 – STOCKHOLDERS' EQUITY

Preferred Stock

The Company had 10,000,000 shares of preferred stock, $0.001 par value per share, authorized as of December 31, 2022. No shares were issued or outstanding in either 2021 or 2022.

Common Stock

The Company had 166,666,667 shares of common stock, $0.001 par value per share, authorized as of December 31, 2022. There were 17,074,173 and 17,860,975 shares of common stock outstanding, net of shares held in treasury, at December 31, 2022 and 2021, respectively.

We issued 156,910 shares of common stock and received proceeds of $1,205,881 in 2022 in connection with the exercise of options. We also issued 1,105,822 shares of common stock and received proceeds of $4,864,231 in 2021 in connection with the exercise of options.

We issued 29,945 shares of common stock in 2022 and 3,333 shares of common in stock in 2021 in connection with the vesting of restricted stock units and discussed in greater detail in Note 11, Stock Based Compensation.

The Company had a Director Compensation plan covering its independent non-employee Directors that was in effect through June 30, 2021. A total of 4,730 were granted and issued in the year ended December 31, 2021 in connection with this compensation plan. These shares were valued at $250,085. The plan was changed to grant restricted stock units under the Company's 2021 Equity Incentive Plan and those grants are discussed in Note 10, Stock Based Compensation.

During the year ended December 31, 2021, in an underwritten primary offering, we issued 1,523,750 shares of our common stock for gross proceeds of $75,425,625. In connection with this transaction, we incurred equity issuance costs of $4,754,089 related to payments to the underwriter, advisors and legal fees associated with the transaction, resulting in net proceeds to the Company of $70,671,536.

During the year ended December 31, 2022, the Board authorized a share repurchase program, under which the Company may repurchase up to $20.0 million of its outstanding common stock. Through December 31, 2022, we repurchased 1,214,398 shares of our common stock for a total of $20,024,258, including commissions paid on repurchases. These shares were recorded as Treasury Shares using the par value method.

NOTE 11 – STOCK BASED COMPENSATION

The Company sponsors two stock-based incentive compensation plans.

The first plan is known as the 2013 Incentive Plan (the "2013 Plan") and was established by the Board of Directors of the Company in June 2013. The 2013 Plan, as amended, authorized the issuance of 3,000,000 shares of Company common stock. The amended plan was approved by shareholders. A total of 410,701 shares of common stock underlying options and 128,590 shares of common stock underlying restricted stock unit awards were outstanding at December 31, 2022. In connection with the adoption of a new plan in 2021, the Company froze the 2013 Plan. At December 31, 2022, there were no shares available for grant under the 2013 Plan.

NOTE 11 – STOCK BASED COMPENSATION (CONTINUED)

In 2021, the Company adopted a new plan known as the 2021 Equity Incentive Plan ("2021 Plan"). The plan was established by the Board of Directors and approved by shareholders in August 2021. A total of 2,500,000 shares are authorized for issuance under the 2021 Plan. A total of 896,169 shares of common stock underlying options and 660,484 shares of common stock underlying restricted stock unit awards were outstanding at December 31, 2022. At December 31, 2022, 921,946 shares were available for grant under the 2021 Plan.

The 2021 Plan allows the Company to grant incentive stock options, non-qualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance awards and other stock-based awards. Incentive stock options may only be granted to persons who are regular full-time employees of the Company at the date of the grant of the option. Non-qualified options may be granted to any person, including, but not limited to, directors, officers, employees and consultants, who the Company's Board or Compensation Committee determines. The exercise price of options granted under the 2021 Plan must be equal to at least 100% of the fair market value of our common stock as of the date of the grant of the option. Options granted under the 2021 Plan are exercisable as determined by the Compensation Committee and specified in the applicable award agreement. In no event will an option be exercisable after ten years from the date of grant.

Stock Options

The compensation cost that has been charged against income related to options for the years ended December 31, 2022 and 2021, was $4,956,619 and $2,709,781, respectively. No income tax benefit was recognized in the consolidated statements of income and no compensation was capitalized in any of the years presented. During the year ended December 31, 2022, we granted certain performance based options, the expense for which will be recorded over time once the achievement of the performance is deemed probable. There was no expense related to these options recorded during the period. The fair value of these instruments was calculated using the Black-Scholes option pricing model.

In the year ended December 31, 2021, certain participants utilized a net withhold exercise method in which options were surrendered to cover payroll withholding tax. Of the cumulative net options exercised by participants were 31,243 options, valued at $100,290, were surrendered and subsequently cancelled.

The Company had the following option activity during the year ended December 31, 2022 and 2021:

	Number of Options	Weighted average exercise price	Weighted average remaining contractual life (years)	Aggregate intrinsic value $
Outstanding at January 1, 2021	1,545,518	$ 7.31		
Granted	424,588	$ 54.34		
Exercised	(1,105,822)	$ 7.33		
Withheld and cancelled	(31,243)	3.21		
Expired or forfeited	(49,494)	$ 24.57		
Outstanding at December 31, 2021	783,547	$ 34.17	3.4	$ 23,368,961
Granted	862,938	$ 25.43		
Exercised	(156,910)	$ 7.69		
Expired or forfeited	(182,705)	$ 37.13		
Outstanding, December 31, 2022	1,306,870	$ 31.14	2.7	$ 1,537,752
Exercisable, December 31, 2022	250,684	$ 33.82	2.6	$ 538,652

NOTE 11 – STOCK BASED COMPENSATION (CONTINUED)

The table below reflects information for the total options outstanding at December 31, 2022

Range of Exercise Prices	Number of Options	Weighted average remaining contractual life (years)	Weighted average exercise price
$4.20 to $10.00	30,335	1.5	$ 6.40
$10.00 to $20.00	568,358	2.6	$ 14.66
$20.00 to $40.00	322,916	2.6	$ 33.79
$40.00 to $60.00	284,231	2.8	$ 47.99
$60.00 to $96.70	101,030	3.7	$ 75.43
Total	1,306,870	2.7	$ 31.14

The table below reflects information for the vested options outstanding at December 31, 2022.

Range of Exercise Prices	Number of Options	Weighted average remaining contractual life (years)	Weighted average exercise price
$4.20 to $10.00	24,168	1.3	$ 6.22
$10.00 to $20.00	69,868	1.7	$ 12.84
$20.00 to $40.00	69,170	2.9	$ 30.77
$40.00 to $60.00	54,667	3.3	$ 51.54
$60.00 to$96.70	32,811	3.7	$ 75.74
Total	250,684	2.6	$ 33.82

A summary of the status of the Company's nonvested options as of December 31, 2022, and changes during the year ended December 31, 2022, is presented below.

Nonvested Options	Options	Weighted average exercise price
Nonvested at January 1, 2022	586,276	$ 42.01
Granted	862,938	$ 25.43
Vested	(223,323)	$ 35.04
Forfeited	(169,705)	$ 37.83
Nonvested at December 31, 2022	1,056,186	$ 30.51

There is $12,528,706 of expense remaining to be recognized over a period of approximately 2.1 years related to options outstanding at December 31, 2022.

NOTE 11 – STOCK BASED COMPENSATION (CONTINUED)

Restricted Stock Units

The Company had the following restricted stock unit ("RSU") activity during the years ended December 31, 2022 and 2021:

	Number of RSUs	Weighted average grant date fair value	Weighted average remaining contractual life (years)
Outstanding at January 1, 2021	100,000	$ 11.51	
Granted	303,556	$ 66.30	
Forfeited	(485)	$ 61.82	
Shares issued	(3,333)	$ 21.20	
Outstanding at December 31, 2021	399,738	$ 52.99	3.3
Granted	467,043	$ 25.69	
Forfeited	(39,346)	$ 44.06	
Vested and issued	(29,945)	$ 59.41	
Withheld and cancelled	(8,416)	$ 68.69	
Outstanding at December 31, 2022	789,074	$ 36.95	2.0

The Company granted restricted stock units of 467,043 and 303,556 units in 2022 and 2021, respectively, and valued at $11,996,111 and $20,125,861, respectively. These restricted stock units vest over a period of 1 year to 5 years. The Company recognized expense of $10,789,203 and $2,532,091 in 2022 and 2021, respectively, related to these restricted stock units. A total of $17,862,951 remains to be recognized at December 31, 2022 over a period of 2.0 years.

In the year ended December 31, 2022, certain participants utilized a net withhold settlement method, in which shares were surrendered to cover payroll withholding tax. Of the cumulative net options exercised by participants were 31,243 options, valued at $100,290, were surrendered and subsequently cancelled.

Performance Stock Units

Of the restricted stock units issued in 2021, 182,938 are market-based awards that vest if the Company's stock price hits certain price targets and maintains that price for 30 days. A total of 60,191, 60,191, and 62,016 units vest if the stock price hits $98.87, $131.82, and $164.78, respectively. As described in Note 2, these market-based restricted stock units were valued using a Monte Carlo simulation model, with expected vesting in 1.60, 2.25, and 2.71 years, respectively, for the three price targets. During the year ended December 31, 2022, we granted certain performance based stock units, the expense for which will be recorded over time once the achievement of the performance is deemed probable. There was no expense related to these options recorded during the period.

Non-employee Directors' Compensation

Our previous director's compensation plan called for the issuance of fully-vested shares of common stock each quarter to each independent director. In 2021, we issued 4,730 shares valued at $250,085 that immediately vested. Subsequent to these grants, we adopted a new directors compensation program that calls for the grant of restricted stock units with a one year vesting period. We granted 3,715 restricted stock units valued at $250,175 in the second half of 2021 under the new plan. These restricted stock units vested in 2022. There were 26,470 restricted stock units, valued at $750,130, granted to the board of directors in 2022 that will vest in 2023, 12 months from the grant dates.

NOTE 12 – LEASES

In February 2016, the Financial Accounting Standards Board ("FASB") issued new accounting guidance on leases. The accounting standard, effective January 1, 2019, requires virtually all leases to be recognized on the balance sheet. Under the guidance, we have elected not to separate lease and non-lease components in recognition of the lease-related assets and liabilities, as well as the related lease expense.

NOTE 12 – LEASES (CONTINUED)

We had operating leases with terms greater than 12 months for office space in three multitenant facilities, which are recorded as assets and liabilities. The lease on our headquarters space in Rochester, Michigan expires November 30, 2023, with a renewal option through 2025, with monthly rent payable at rates ranging from $6,384 to $6,688. We have assumed renewal of the lease. We also had a lease on office space in Cranbury, New Jersey, which expired in January 2022 with a monthly payment of $3,158, as well as a lease of approximately $1,883 per month in Zagreb, Croatia expiring in 2024.

Lease-related assets, or right-of-use assets, are recognized at the lease commencement date at amounts equal to the respective lease liabilities, adjusted for prepaid lease payments, initial direct costs, and lease incentives received. Lease-related liabilities are recognized at the present value of the remaining contractual fixed lease payments, discounted using our incremental borrowing rate. Operating lease expense is recognized on a straight-line basis over the lease term, while variable lease payments are expensed as incurred.

For the years ended December 31, 2022 and 2021, the Company's lease cost consisted of the following components, each of which is included in operating expenses within the Company's consolidated statements of operations:

	2022	2021
Operating lease cost	$ 100,771	$ 132,305
Short-term lease cost (1)	75,784	52,375
Total lease cost	$ 176,555	$ 184,680

(1) Short-term lease cost includes any lease with a term of less than 12 months.

The table below presents the future minimum lease payments to be made under operating leases as of December 31, 2022:

For the year ending December 31,	
2023	$ 98,247
2024	80,215
2025	70,224
Total	248,686
Less: present value discount	14,252
Total lease liabilities	$ 234,434

The weighted average remaining lease term for operating leases is 2.7 years and the weighted average discount rate used in calculating the operating lease asset and liability is 4.5%. Cash paid for amounts included in the measurement of lease liabilities was $89,111. For the year ended December 31, 2022, payments on lease obligations were $101,405 and amortization on the right of use assets was $101,433. For the year ended December 31, 2021, payments on lease obligations were $142,284 and amortization on the right of use assets was $121,129.

NOTE 13 – MAJOR CUSTOMERS AND VENDORS

The Company had the following customers that accounted for 10% or greater of revenue in either 2022 or 2021. No other customers accounted for more than 10% of revenue in either year presented.

	2022		2021	
	$	%	$	%
Customer A	6,817,682	10.9	5,206,305	8.5
Customer B	3,876,580	6.2	14,268,819	23.0

Our accounts receivable included two entities, including one agency that represented multiple customers, that individually made up more than 10% of our accounts receivable at December 31, 2022 in the percentages of 13.3% and 10.8%. As of December 31, 2021, our accounts receivable included two agencies that represented multiple customers that individually made up more than 10% of our accounts receivable in the percentages of 33.5% and 12.2%.

The Company generates its revenues through its EHR and ePrescribe partners. There were three key partners and/or vendors through which 10% or greater of its revenue was generated in either 2022 or 2021 as set forth below. The amounts in the table below reflect the amount of revenue generated through those partners.

	2022		2021	
	$	%	$	%
Partner A	19,882,511	31.8	33,041,503	53.9
Partner B	12,494,227	20.0	2,761,893	4.5
Partner C	6,578,661	10.5	9,554,266	15.6

NOTE 14 – INCOME TAXES

As of December 31, 2022, the Company had net operating loss (“NOLs”) carry-forwards for federal income tax purposes of approximately $21.5 million, consisting of pre-2018 losses in the amount of approximately $8.2 million that expire from 2022 through 2037, and post-2017 losses in the amount of approximately $13.3 million that will never expire. These net operating losses are available to offset future taxable income. The Company was formed in 2008 as a Nevada Corporation. Activity prior to incorporation is not reflected in the Company’s corporate tax returns. In the future, the cumulative net operating loss carry-forward for income tax purposes may differ from the cumulative financial statement loss due to timing differences between book and tax reporting.

NOTE 14 – INCOME TAXES (CONTINUED)

The provision for Federal income tax consists of the following for the years ended December 31, 2022 and 2021:

	2022	2021
Federal income tax benefit (expense) attributable to:		
Current operations	$ 2,402,000	$ (79,000)
State tax effect, net of federal benefit	545,000	979,000
Option exercise benefits (expenses), net of Section 162M limitations	(268,000)	2,171,000
Other adjustments	221,000	(30,000)
NOLs expiring	—	(26,000)
Valuation allowance	(2,900,000)	(3,006,000)
Net provision for federal income tax	$ —	$ —

	2022	2021
Current tax benefit (expense) - Federal	$ —	$ —
Deferred tax benefit (expense) - Federal	—	—
Adjustment of valuation allowance from business combination	—	—
Total tax benefit (expense) on income	$ —	$ —

NOTE 14 – INCOME TAXES (CONTINUED)

The cumulative tax effect of significant items comprising our net deferred tax amount at the expected rate of 21% is as follows as of December 31, 2022 and 2021:

	2022	2021
Deferred tax asset attributable to:		
Net operating loss carryover	$ 5,545,000	$ 6,887,000
Stock compensation	3,953,000	809,000
Operating lease liability	63,000	88,000
Section 174 Capitalized Expenses	789,000	—
Fixed Assets	126,000	13,000
Other	16,000	85,000
Deferred tax asset	$ 10, 492,000	$ 7,882,000
Deferred tax liabilities attributable to:		
Intangibles	$ (2,102,000)	$ (2,490,000)
Operating lease right of use assets	(63,000)	(88,000)
Goodwill	(106,000)	—
Other	(59,000)	(42,000)
Deferred tax liability	(2,330,000)	(2,620,000)
Net deferred tax asset	$ 8,162,000	$ 5,262,000
Valuation allowance	(8,162,000)	(5,262,000)
Net deferred tax asset, net of valuation allowance	$ —	$ —

The ultimate realization of deferred tax assets is dependent upon the Company's ability to generate sufficient taxable income during the periods in which the net operating losses expire and the temporary differences become deductible. The Company has determined that there is significant uncertainty that the results of future operations and the reversals of existing taxable temporary differences will generate sufficient taxable income to realize the deferred tax assets; therefore, a valuation allowance has been recorded. In making this determination, the Company considered historical levels of income, projections for future periods, and the significant amount of tax deductions to be generated from the future exercise of stock options.

The tax years 2019 to 2022 remain open for potential audit by the Internal Revenue Service. There are no uncertain tax positions as of December 31, 2021 or December 31, 2022, and none are expected in the next 12 months. The Company's foreign subsidiaries are cost centers that are primarily reimbursed for expenses, as a result they generate an immaterial amount of income or loss. Pretax book income (loss) is all from domestic operations. Up to four years of returns remain open for potential audit in foreign jurisdictions, however any audits for periods prior to ownership by the Company are the responsibility of the previous owners.

Under certain circumstances issuance of common shares can result in an ownership change under Internal Revenue Code Section 382, which limits the Company's ability to utilize carry-forwards from prior to the ownership change. Any such ownership change resulting from stock issuances and redemptions could limit the Company's ability to utilize any net operating loss carry-forwards or credits generated before this change in ownership. These limitations can limit both the timing of usage of these laws, as well as the loss of the ability to use these net operating losses. The Company had an ownership change as described in IRC Section 382 on March 18, 2014. The Company NOL's generated up until March 18, 2014 have been fully released.

NOTE 15 – COMMITMENTS AND CONTINGENT LIABILITIES

Legal

The Company is not involved in any legal proceedings.

Revenue-share contracts

The Company has contracts with various electronic health records systems and ePrescribe platforms, whereby we agree to share a portion of the revenue we generate for eCoupons distributed and banners delivered through their networks. These contracts grant audit rights related to the payments to our partners, and, in some cases would require us to pay for the audit if the audit determined there was an underpayment and the underpayment meets certain thresholds, such as 10%. From time to time the Company enters into arrangements with a partner to acquire minimum amounts of messaging capabilities. As of December 31, 2022, the Company had commitments for future minimum payments of $16.4 million that will be reflected in cost of revenues during the years from 2023 through 2025. Minimum payments are due in 2023, 2024 and 2025, in the amounts of $6.2 million, $5.2 million and $5.0 million, respectively.

NOTE 16 – RETIREMENT PLAN

The Company sponsors a defined contribution 401(k) profit sharing plan which was adopted in December 2015, effective in January 2016. Under the terms of the plan, the Company matches 100% of the first 3% of payroll contributed by the employee and 50% of the next 2% of payroll contributed by the employee to a maximum of 4% of an employee's payroll. There was expense of $489,780 and $343,221 recorded in 2022 and 2021, respectively, for the Company's contributions to the plan.

NOTE 17 – SUBSEQUENT EVENTS

None.

Item 9. Changes In and Disagreements with Accountants on Accounting and Financial Disclosure

None

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures.

We maintain disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosures.

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, conducted an evaluation, as of the end of the period covered by this report, of the effectiveness of our disclosure controls and procedures, as such term is defined in Exchange Act Rule 13a-15(e). Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that, as of the end of the period covered by this report, due to a material weakness in our internal control over financial reporting, our disclosure controls and procedures, as defined in Rule 13a-15(e), were not effective at the reasonable assurance level.

To address the material weakness referenced above, the Company performed additional analysis and performed other procedures in order to prepare the audited consolidated financial statements in accordance with generally accepted accounting principles (GAAP). Accordingly, management believes that the consolidated financial statements included in this Annual Report on Form 10-K fairly present, in all material respects, our financial condition, results of operations and cash flows for the periods presented.

Management's Report on Internal Control Over Financial Reporting.

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Exchange Act Rule 13a-15(f). Internal control over financial reporting is a process designed 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 in the United States of America. The Company's internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;

- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and

- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, any system of internal control over financial reporting, no matter how well defined, may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. The Company's management, with the participation of our Chief Executive Officer and our Chief Financial Officer, assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2022. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control — Integrated Framework (2013). Based on this assessment using those criteria, management identified the following material weakness existed as of December 31, 2022: inadequate controls to ensure that data received from third-party service organizations is complete and accurate. As a result, based on the COSO criteria, the Company's management has concluded that we did not maintain effective internal control over financial reporting as of December 31, 2022.

Plan for Remediation of Material Weakness

Management is actively engaged in the planning for, and implementation of, remediation efforts to address the material weakness identified above. Management intends to implement the following remediation steps:

a. The Company will require each third-party service organization to provide a SOC-1, Type 2 report to us.
b. If a SOC-1, Type 2 report is not available, the Company will evaluate each third-party's relevant system(s) and reporting directly through inquiry and substantive testing of such third-party's control environment.

Management believes the measures described above will remediate the material weakness that we have identified. As management continues to evaluate and improve our disclosure controls and procedures and internal control over financial reporting, the Company may decide to take additional measures to address control deficiencies or determine to modify, or in appropriate circumstances not to complete, certain of the remediation measures identified.

Changes in Internal Controls Over Financial Reporting.

There was no change in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act), that occurred during the quarter ended December 31, 2022 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

Amended and Restated Bylaws

In connection with new universal proxy card rules adopted by the US Securities and Exchange Commission ("SEC"), the Board of Directors (the "Board") of the Company approved third amended and restated bylaws of the Company (the "Amended and Restated Bylaws"), effective as of March 7, 2023. Among other things, the Amended and Restated Bylaws require that any shareholder soliciting proxies in support of a nominee other than the Board's nominees must comply with Rule 14a-19 under the Securities Exchange Act of 1934, as amended, including applicable notice and solicitation requirements. Further, any shareholder directly or indirectly soliciting proxies from other shareholders must use a proxy card color other than white, with the white proxy card being reserved for the exclusive use by the Board. This description of the Amended and Restated Bylaws does not purport to be complete and is qualified in its entirety by reference to the text of the Amended and Restated Bylaws, which is attached hereto as Exhibit 3.2 and incorporated herein by reference.

Executive Severance Plan

On March 8, 2023, the Compensation Committee adopted the OptimizeRx Corporation Executive Severance Plan (the "Severance Plan") to provide severance benefits to certain eligible employees of the Company. Each of the Company's named executive officers, other than Mr. Febbo, identified in the Company's proxy statement filed in connection with its 2022 annual meeting of shareholders (collectively, the "Named Executive Officers") has been designated a participant in the Severance Plan.

The Severance Plan provides that if a Named Executive Officer is terminated without cause or resigns for Good Reason, he/she will be paid (i) an amount equal to 1.0 times his/her base salary, paid in installments over 12 months, (ii) an amount equal to his/her target annual bonus in effect at the time of termination, paid in a lump sum, and (iii) payment by the Company of COBRA premiums for the Named Executive Officer and his/her spouse and eligible dependents for up to 12 months following termination (the payments in (i), (ii) and (iii) collectively referred to as "Severance Benefits"). In addition, if a Named Executive Officer is terminated without cause or resigns for Good Reason three months prior to or 24 months following a Change in Control, in addition to the Severance Benefits, such Named Executive Officer will be paid a lump sum payment equal to 2.0 times his/her then current base salary. The Severance Plan also provides that if a Named Executive Officer is terminated due to death or Disability, such Named Executive Officer (or his/her estate) will be paid an amount equal to his/her target annual bonus in effect at the time of termination, paid in a lump sum. Terms not otherwise defined herein have the meanings assigned to them in Severance Plan.

Unless otherwise stated in a participant's individual employment agreement, if any payments or benefits under the Severance Plan would be considered "parachute payments" under Section 280G of the Code, and would be subject to the excise tax imposed by Section 4999 of the Code, then such payments will either be (i) reduced so than no portion of the payments is subject to the excise tax or (ii) delivered in full, whichever of the foregoing results in the participant receiving a greater amount on a net after-tax basis, taking into account all federal, state and local taxes and the excise tax imposed by Section 4999 of the Code.

The foregoing description of the Severance Plan is not complete and is qualified in its entirety by reference to the complete text of the Severance Plan, a copy of which is filed as Exhibit 10.18 to this Form 10-K and is incorporated herein by reference.

Amendment to Will Febbo's Employment Agreement

On March 8, 2023, the Company entered into a Fourth Addendum (the "Fourth Addendum") to the employment offer letter dated February 25, 2019, as amended, with William J. Febbo (the "Employment Agreement") which updates and amends the Employment Agreement to, among other things, provide that if three months prior to, or 24 months following, a Change in Control, Mr. Febbo is terminated without Cause or resigns for Good Reason, in addition to other amounts payable to Mr. Febbo pursuant to the Employment Agreement, Mr. Febbo will be paid a lump sum payment equal to 4.0 times his then current base salary. Terms not otherwise defined herein have the meanings assigned to them in the Fourth Addendum.

The above summary of Mr. Febbo's Fourth Addendum is not complete and is qualified in its entirety by reference to the complete text of the Fourth Addendum, a copy of which is filed as Exhibit 10.19 to this Form 10-K and is incorporated herein by reference.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.

None

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Except for the information provided in PART I, Item 4.1, "Information About Our Executive Officers" and as set forth below, the required information is incorporated by reference from our definitive proxy statement for our 2023 Annual Meeting of Shareholders, including, but not necessarily limited to, the sections entitled "Proposal No. 1 Election of Directors, "Committees of the Board of Directors" and "Information Regarding Security Holders – Delinquent Section 16(a) Reports."

We have a Code of Business Conduct and Ethics (the "Code") that applies to our directors, officers, and employees. Only the Board may grant a waiver of any provision for a director, executive officer, or any other principal financial officer, and any such waiver, or any amendment to the Code, will be promptly disclosed as required at *www.optimizerx.com*. The Code can be found on the Company's website at *www.optimizerx.com* under "Investor Relations—Governance." The information on the website is not and should not be considered part of this Form 10-K and is not incorporated by reference in this Form 10-K.

Item 11. Executive Compensation

The required information is incorporated by reference from our definitive proxy statement for our 2023 Annual Meeting of Shareholders, including, but not necessarily limited to, the sections entitled "Director Compensation" and "Executive Compensation".

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

Except for the information set forth below, the required information is incorporated by reference from our definitive proxy statement for our 2023 Annual Meeting of Shareholders, including, but not necessarily limited to, the section entitled "Information Regarding Security Holders."

Equity Compensation Plan Information

The following table details information regarding our existing equity compensation plans as of December 31, 2022:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
	(a)	(b)	(c)
Equity compensation plans approved by security holders			
2013 Equity Compensation Plan – Options	410,701	33.57	0
2013 Equity Compensation Plan – Restricted Stock Units	128,590	N/A	0
2021 Equity Incentive Plan – Options	896,169	30.03	0
2021 Equity Incentive Plan – Restricted Stock Units	660,484	N/A	921,946
Equity compensation plans not approved by security holders	0	N/A	0
Total	2,095,944		921,946

Item 13. Certain Relationships and Related Transactions, and Director Independence

The required information is incorporated by reference from our definitive proxy statement for our 2023 Annual Meeting of Shareholders, including, but not necessarily limited to, the sections entitled "Certain Relationships and Related Transactions" and "Corporate Governance - Director Independence."

Item 14. Principal Accounting Fees and Services

The required information is incorporated by reference from our definitive proxy statement for our 2023 Annual Meeting of Shareholders, including, but not necessarily limited to, the sections entitled "Ratification of UHY LLP as Independent Registered Public Accounting Firm – Independent Registered Public Accountant Fee Information" and "Ratification of UHY LLP as Independent Registered Public Accounting Firm – Pre-Approval Policies and Procedures."

PART IV

Item 15. Exhibits and Financial Statements Schedules

(a) The consolidated financial statements and exhibits listed below are filed as part of this Annual Report on Form 10-K.

(1) The Company's consolidated financial statements, the notes thereto and the report of the Independent Registered Public Accounting Firm are included in PART II, Item 8. "Financial Statements and Supplementary Data."

(2) Financial statement schedules have been omitted because they are not applicable, not required, or the required information is included in the Consolidated Financial Statements or Notes thereto.

(3) Exhibits. Reference is made to Item 15(b) below.

(b) *Exhibits*. The Exhibit Index, which immediately precedes the signature page, is incorporated by reference into this Annual Report on Form 10-K.

(c) *Financial Statement Schedules*. Reference is made to Item 15(a)(2) above.

Item 16. Form 10-K Summary

None

EXHIBIT INDEX

Exhibit Number	Description
3.1	Articles of Incorporation of OptimizeRx Corporation (the "Company") Incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1 (Registration No. 333-155280) filed on November 12, 2008.
3.2	Certificate of Correction, dated April 30, 2018. Incorporated by reference to Exhibit 3.5 to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
3.3**	Third Amended and Restated Bylaws of the Company.
4.1	Description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934. Incorporated by reference to Exhibit 4.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 2021.
10.1†	Fourth Amended and Restated 2013 Equity Incentive Plan. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on March 12, 2020.
10.2†	OptimizeRx 2021 Equity Incentive Plan. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on August 25, 2021.
10.3†	Form of Stock Option Award for grants under the OptimizeRx Corporation 2021 Equity Incentive Plan. Incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on August 25, 2021.
10.4†	Form of Performance Stock Option Award for grants under the OptimizeRx Corporation 2021 Equity Incentive Plan. Incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on August 25, 2021.
10.5†	Form of Restricted Stock Unit Award for grants under the OptimizeRx Corporation 2021 Equity Incentive Plan. Incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed on August 25, 2021.
10.6†	Form of Performance Restricted Stock Unit Award for grants under the OptimizeRx Corporation 2021. Incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed on August 25, 2021
10.7†	Amended Employment Agreement by and between the Company and William J. Febbo. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on February 26, 2019.
10.8†	Amendment to the Employment Agreement with William Febbo. Incorporated by reference to Exhibit 10.4 to the Company's Annual Report on Form 10-K for the year ended December 31, 2019.
10.9 †	Addendum to the Employment Agreement with William J. Febbo. Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2021.
10.10*†	Third Addendum to the Employment Agreement with William J. Febbo,. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on October 19, 2021.
10.11†	Employment Agreement by and between the Company and Stephen Silvestro. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on May 3, 2019.
10.12†	Amendment to the Employment Agreement with Stephen Silvestro. Incorporated by reference to Exhibit 10.5 to the Company's Annual Report on Form 10-K for the year ended December 31, 2019.
10.13†	Amendment to Employment Agreement by and between the Company and Stephen Silvestro dated February 28, 2022. Incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on March 4, 2022.
10.14†	Employment Agreement with Marion Odence-Ford. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on February 11, 2021.
10.15†	Amendment to Employment Agreement by and between the Company and Marion Odence-Ford dated February 28, 2022. Incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on March 4, 2022.
10.16*†	Offer Letter by and between the Company and Edward Stelmakh. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on September 30, 2021.
10.17†	OptimizeRx Corporation 2022 Cash Bonus Plan. Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on March 4, 2022.
10.18**	OptimizeRx Corporation Executive Severance Plan

10.19**	Fourth Addendum to the Employment Agreement with William J. Febbo
14.1	Code of Business Conduct and Ethics Incorporated by reference to Exhibit 14.1 to the Company's Current Report on Form 8-K filed on June 25, 2021.
21.1**	List of Subsidiaries
23.1**	Consent of UHY LLP
31.1**	Certification of Chief Executive Officer pursuant to Securities Exchange Act Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2**	Certification of Chief Financial Officer pursuant to Securities Exchange Act Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1**	Certification of Chief 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**	Inline XBRL Instance Document
101.SCH	Inline XBRL Schema Document
101.CAL	Inline XBRL Calculation Linkbase Document
101.DEF	Inline XBRL Definition Linkbase Document
101.LAB	Inline XBRL Label Linkbase Document
101.PRE	Inline Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

† Management Contracts and Compensatory Plans, Contracts or Arrangements.

* Exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company agrees to furnish supplementally a copy of any omitted exhibit to the SEC upon request.

** Provided herewith.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

OptimizeRx Corporation

By: /s/ William J. Febbo
William Febbo
Title: Chief Executive Officer
Date: March 10, 2023

By: /s/ Edward Stelmakh
Edward Stelmakh
Title: Chief Financial Officer
Chief Operations Officer
Date: March 10, 2023

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ William J. Febbo William J. Febbo	Chief Executive Officer and Director (principal executive officer)	March 10, 2023
/s/ Edward Stelmakh Edward Stelmakh	Chief Financial Officer and Chief Operations Officer (principal financial and accounting officer)	March 10, 2023
/s/ Gus D. Halas Gus D. Halas	Chairman	March 10, 2023
/s/ James Lang James Lang	Director	March 10, 2023
/s/ Patrick Spangler Patrick Spangler	Director	March 10, 2023
/s/ Lynn Vos Lynn Vos	Director	March 10, 2023
/s/ Greg Wasson Greg Wasson	Director	March 10, 2023

THIRD AMENDED AND RESTATED BYLAWS OF OPTIMIZERX CORPORATION (A NEVADA CORPORATION)

ARTICLE I
OFFICES

Section 1.1 Principal Office. The principal office of OptimizeRx Corporation (the "Corporation") shall be at such place within or outside of the State of Nevada as the board of directors of the Corporation (the "Board") shall from time to time designate.

Section 1.2 Other Offices. The Corporation may also have other offices at such other places within or outside of the State of Nevada as the Board may from time to time designate or the business of the Corporation shall require. The street address of the Corporation's registered agent is the registered office of the Corporation in Nevada.

ARTICLE II
STOCKHOLDERS

Section 2.1 Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held on such date and at such time as designated by the Board. The purpose of this meeting shall be for the election of directors and for the transaction of such other business as may properly come before the meeting.

Section 2.2 Special Meetings.

(a) Special meetings of the stockholders may be called only by the Chairperson or the chief executive officer, if any, and shall be called by the secretary upon the written request of (i) at least a majority of the Board, or (ii) stockholders who together own of record not less than 50.1% of the capital stock of the Corporation issued and outstanding and entitled to vote at such meeting. Such written request of stockholders shall state the purpose or purposes of the proposed special meeting, contain all of the information required to be disclosed pursuant to Section 2.13(c)(1) of these Third Amended and Restated Bylaws (as amended or amended and restated from time to time, the "Bylaws") and comply with the other requirements set forth in these Bylaws.

(b) No business shall be acted upon at a special meeting of stockholders except as set forth in the notice of the meeting.

Section 2.3 Place of Meetings. Any meeting of the stockholders may be held at any location within or outside of the State of Nevada as may be designated in the notice of meeting. The Board may, in its sole discretion, determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of electronic communications, videoconferencing, teleconferencing or other available technology in accordance with Section 2.15.

Section 2.4 Notice of Meetings. Except as otherwise provided by law or by the Corporation's articles of incorporation (as amended or amended and restated from time to time, the "Articles of Incorporation"), a written notice of each annual and special meeting of stockholders shall be given not less than ten (10) days nor more than sixty (60) days before the date of such meeting to each stockholder of record of the Corporation entitled to vote at such meeting. The notice of a meeting of stockholders shall state the place (if any), date and hour of the meeting, the means of any electronic communication by which stockholders may participate in the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Notice to each stockholder entitled to vote at the meeting shall be given personally, by mail, or by electronic transmission if consented to by a stockholder in accordance with Nevada law, by or at the direction of the secretary or the officer or person calling the meeting. The notice shall be delivered in accordance with, and shall contain or be accompanied by such additional information as may be required by the Nevada Revised Statutes (as amended from time to time, the "NRS"), including, without limitation, NRS 78.370, 92A.120 or 92A.410.

Section 2.5 Waiver of Notice. Notice of any annual or special meeting may be waived either before, at or after such meeting by a signed writing by the person or persons entitled to the notice or by any other method permitted by Nevada law. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transacting of any business because the meeting is not lawfully called or convened.

Section 2.6 Determination of Stockholders of Record.

(a) For the purpose of determining the stockholders entitled to notice of and to vote at any meeting of stockholders or any adjournment or postponement thereof, the Board may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting. If no record date is fixed, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be the close of business on the day before the day the first notice of the meeting is given or, if notice is waived, the close of business on the day before the day the meeting is held.

(b) A determination of stockholders of record entitled to notice of or to vote at any meeting of stockholders shall apply to any adjournment or postponement of the meeting; *provided*, *however*, that the Board may fix a new record date for the adjourned or postponed meeting and must fix a new record date if the meeting is adjourned or postponed to a date more than sixty (60) days later than the meeting date set for the original meeting.

Section 2.7 Quorum; Adjourned Meetings.

(a) Except as otherwise provided by law or by the Articles of Incorporation, the holders of shares representing at least a majority of the voting power of the Corporation's capital stock, present in person or by proxy (regardless of whether the proxy has authority to vote on any matter), shall constitute a quorum for the transaction of business at any annual or special meeting. If any class or series of shares is permitted or required to vote separately on any action, the holders of at least a majority of the voting power, present in person or by proxy (regardless of whether the proxy has authority to vote on any matter), of such class or series is necessary to constitute a quorum of such class or series. If a quorum is present, the stockholders may continue to transact business until adjournment notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

(b) If a quorum is not represented, a majority of the voting power represented in person or by proxy at the meeting may adjourn the meeting from time to time until a quorum shall be represented. Notice of any adjourned meeting need not be given if the time and place thereof are announced at the meeting at which the adjournment is taken. However, if a new record date is fixed for the adjourned meeting, notice of the adjourned meeting must be given to each stockholder of record as of the new record date. At adjourned meetings at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally noticed.

Section 2.8 Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize a proxy to represent him or her at the meeting by an instrument executed in writing. Each such proxy shall be valid until its expiration or revocation in a manner permitted by the laws of the State of Nevada. A proxy may be irrevocable if it states that it is irrevocable and, if, and only as long as, it is coupled with an interest sufficient to support an irrevocable power. Subject to the above, any proxy may be revoked if an instrument or transmission revoking it or a properly created proxy bearing a later date is filed with or transmitted to the secretary or another person appointed by the Corporation to count the votes of stockholders and determine the validity of proxies and ballots, or, in the case of a meeting of stockholders, the stockholder revokes the proxy by attending the meeting and voting the stockholder's shares in person, in which case, any vote cast by the person or persons designated by the stockholder to act as a proxy or proxies must be disregarded by the Corporation when the votes are counted.

Section 2.9 Voting.

(a) Each outstanding share of stock, regardless of class or series, shall be entitled to one (1) vote on each matter submitted to a vote at a meeting of stockholders, except to the extent that the Articles of Incorporation or the certificate of designation establishing the class or series of stock provides for more or less than one (1) vote per share or limits or denies voting rights to the holders of the shares of any class or series of stock.

(b) If a quorum is present, unless the Articles of Incorporation, these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or applicable law provide for a different proportion, action by the stockholders entitled to vote on a matter, other than the election of directors, is approved by and is the act of the stockholders if the number of votes cast in favor of the action exceeds the number of votes cast in opposition to the action.

(c) If a quorum is present, unless otherwise provided by the Articles of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes cast.

Section 2.10 No Action Without a Meeting. No action of the stockholders shall be taken by either unanimous consent or partial written consent in lieu of a meeting. No action shall be taken by the stockholders except at an annual or special meeting of the stockholders called and noticed in the manner required by these Bylaws. Any purported action taken in violation of this Section shall be null, void and of no legal effect.

Section 2.11 Organization.

(a) Meetings of stockholders shall be presided over by the Chairperson, or, in the absence of the Chairperson, the chief executive officer, if any, or, in the absence of the chief executive officer, by the president, or, in the absence of the foregoing persons, by a chairman designated by the Board, or, in the absence of such designation by the Board, by a chairman chosen at the meeting by the stockholders entitled to cast a majority of the votes which all stockholders present in person or by proxy are entitled to cast. The secretary, or in the absence of the secretary an assistant secretary, shall act as secretary of the meeting, but in the absence of the secretary and any assistant secretary the chairman of the meeting may appoint any person to act as secretary of the meeting. The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitation on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls.

(b) The chairman of the meeting may appoint one or more inspectors of elections. The inspector or inspectors may (i) ascertain the number of shares outstanding and the voting power of each; (ii) determine the number of shares represented at a meeting and the validity of proxies or ballots; (iii) count all votes and ballots; (iv) determine any challenges made to any determination made by the inspector(s); and (v) certify the determination of the number of shares represented at the meeting and the count of all votes and ballots.

Section 2.12 Order of Business.

(a) Annual Meetings of Stockholders. At any annual meeting of the stockholders, only such nominations of individuals for election to the Board shall be made, and only such other business shall be conducted or considered, as shall have been properly brought before the meeting in accordance with these Bylaws.

For nominations to be properly made at an annual meeting, and proposals of other business to be properly brought before an annual meeting, nominations and proposals of other business must be: (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly made at the annual meeting, by or at the direction of the Board or (iii) otherwise properly requested to be brought before the annual meeting by a stockholder of the Corporation in accordance with these Bylaws. For nominations of individuals for election to the Board or proposals of other business to be properly requested by a stockholder to be made at an annual meeting, a stockholder must (i) be a stockholder of record at the time of giving of notice of such annual meeting by or at the direction of the Board and at the time of the annual meeting, (ii) be entitled to vote at such annual meeting and (iii) comply with the procedures set forth in these Bylaws as to such business or nomination. The immediately preceding sentence shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and included in the Corporation's notice of meeting) before an annual meeting of stockholders.

(b) Special Meetings of Stockholders. At any special meeting of the stockholders, only such business shall be conducted or considered as shall have been properly brought before the meeting pursuant to the Corporation's notice of meeting. To be properly brought before a special meeting, proposals of business must be (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the special meeting, by or at the direction of the Board or (iii) specified in the Corporation's notice of meeting (or any supplement thereto) given by the Corporation pursuant to a valid stockholder request in accordance with Section 2.2 of these Bylaws, it being understood that business transacted at such a special meeting shall be limited to the matters stated in such valid stockholder request; provided, however, that nothing herein shall prohibit the Board from submitting additional matters to stockholders at any such special meeting. In order for any business to be brought before a special meeting pursuant to a stockholder request pursuant to Section 2.2 of these Bylaws, such business must be a proper matter for stockholder action under applicable law.

Nominations of individuals for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (i) by or at the direction of the Board or (ii) provided that the Board has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who (A) is a stockholder of record at the time of giving of notice of such special meeting and at the time of the special meeting, (B) is entitled to vote at the meeting, and (C) complies with the procedures set forth in these Bylaws as to such nomination. This Section 2.12(b) shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Exchange Act and included in the Corporation's notice of meeting) before a special meeting of stockholders.

(c) General. Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, the chairman of any annual or special meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with these Bylaws and, if any proposed nomination or other business is not in compliance with these Bylaws, to declare that no action shall be taken on such nomination or other proposal and such nomination or other proposal shall be disregarded.

Section 2.13. Advance Notice of Stockholder Business and Nominations.

(a) Annual Meeting of Stockholders. Without qualification or limitation, subject to Section 2.13(c)(4) of these Bylaws, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Section 2.12(a) of these Bylaws, the stockholder must have given timely notice thereof (including, in the case of nominations, the completed and signed questionnaire, representation and agreement required by Section 2.14 of these Bylaws), and timely updates and supplements thereof, in each case in proper form, in writing to the secretary (and to the extent that Rule 14a-19 under the Exchange Act applies, has complied with Rule 14a-19 under the Exchange Act), and such other business must otherwise be a proper matter for stockholder action under applicable law.

To be timely, a stockholder's notice shall be delivered to the secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the 120th day prior to the date of such annual meeting and not later than the close of business on the later of the 90th day prior to the date of such annual meeting or, if the first public announcement of the date of such annual meeting is less than one hundred (100) days prior to the date of such annual meeting, the 10th day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

Notwithstanding anything in the immediately preceding paragraph to the contrary, in the event that the number of directors to be elected to the Board is increased by the Board, and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.13(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the day on which such public announcement is first made by the Corporation.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof. For the avoidance of doubt, the obligation to update and supplement as set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or under any other provision of the Bylaws or enable or be deemed to permit a stockholder who has previously submitted notice hereunder or under any other provision of the Bylaws to amend or update any proposal or to submit any new proposal, including by changing or adding nominees, matters, business and or resolutions proposed to be brought before a meeting of the stockholders.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting, subject to the provisions of Section 2.12(b) of these Bylaws.

Subject to Section 2.13(c)(4) of these Bylaws, in the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, any stockholder may nominate an individual or individuals (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, provided that the stockholder gives timely notice thereof (including the completed and signed questionnaire, representation and agreement required by Section 2.14 of these Bylaws), and timely updates and supplements thereof in each case in proper form, in writing, to the secretary. To be timely, a stockholder's notice pursuant to the preceding sentence shall be delivered to the secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to the date of such special meeting and not later than the close of business on the later of the 90th day prior to the date of such special meeting or, if the first public announcement of the date of such special meeting is less than one hundred (100) days prior to the date of such special meeting, the 10th day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. In no event shall any adjournment or postponement of a special meeting of stockholders, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above. In addition, to be considered timely, a stockholder's notice pursuant to the first sentence of this paragraph shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) business days prior to the date for the meeting, any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof.

(c) Disclosure Requirements.

(1) To be in proper form, a stockholder's notice (whether given pursuant to Section 2.2, Section 2.12, this Section 2.13 or Section 2.14) to the secretary must include the following, as applicable:

(a) As to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal, as applicable, is made, a stockholder's notice must set forth: (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class or series and number of shares of stock which are owned beneficially and of record by such stockholder and such beneficial owner, and any shares of any class or series of stock of the Corporation as to which such stockholder and such beneficial owner has a right to acquire beneficial ownership at any time in the future, (iii) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, including, in the case of a nomination, the nominee, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into by, or on behalf of, such stockholder or such beneficial owner and any of their affiliates or associates, whether or not such instrument or right shall be subject to settlement in underlying shares of stock, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner or any of their affiliates or associates, with respect to securities of the Corporation, (v) a representation that the stockholder is a holder of record of stock entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, (vi) a representation as to whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends to deliver a proxy statement and form of proxy to holders representing, in the case of a nomination, at least sixty-seven percent (67%) of the Corporation's voting shares entitled to vote on the election of directors in support of such nominee or nominees, or, in the case of business other than nominations,to holders of at least the percentage of outstanding stock required to approve or adopt the proposal, (vii) any material pending or threatened legal proceeding in which such stockholder or such beneficial owner is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (viii) any other material relationship between such stockholder or such beneficial owner, on the one hand, and the Corporation or any affiliate of the Corporation, on the other hand, (ix) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, and (x) a representation as to whether or not such stockholder or beneficial owner, if any, intends to solicit proxies in support of director nominees other than the Corporation's nominees in accordance with Rule 14a-19 promulgated under the Exchange Act.

(b) If the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the meeting, a stockholder's notice must, in addition to the matters set forth in paragraph (a) above, also set forth: (i) a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest of such stockholder, the beneficial owner, if any, on whose behalf the proposal is made, or any of their affiliates or associates, (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such proposal or business includes a proposal to amend the Bylaws of the Corporation, the text of the proposed amendment), and (iii) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies in support of the business proposed to be brought before the meeting pursuant to Section 14 of the Exchange Act.

(c) As to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board, a stockholder's notice must, in addition to the matters set forth in paragraph (a) above, also set forth: (i) all information relating to such individual that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such individual's written consent to being named in any proxy statement and other proxy materials as a nominee and to serving as a director if elected) and (ii) such other information regarding such person as may reasonably be requested by the Board in writing prior to the meeting of stockholders at which such candidate's nomination is to be acted upon in order for the Board to determine the eligibility of such candidate for nomination to be an independent director of the Corporation.

(d) With respect to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board, a stockholder's notice must, in addition to the matters set forth in paragraphs (a) and (c) above, also include a completed and signed questionnaire, representation and agreement required by Section 2.14 of these Bylaws.

(2) For purposes of these Bylaws, "public announcement" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(3) Notwithstanding the provisions of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bylaw; provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the separate and additional requirements set forth in these Bylaws with respect to nominations or proposals as to any other business to be considered.

(4) Nothing in this Section 2.13 shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, or (ii) of the holders of any series of preferred stock if and to the extent provided for under law, the Articles of Incorporation or these Bylaws. Subject to Rules 14a-8 and 14a-19 under the Exchange Act, nothing in this Section 2.13 shall be construed to permit any stockholder, or give any stockholder the right, to include or have disseminated or described in the Corporation's proxy materials any nomination of director or directors or any other business proposal. The Corporation shall not be required to include in its proxy materials any successor, substitute or replacement nominee for director at a stockholder meeting if a stockholder's notice is not timely pursuant to this Section 2-13 with respect to such successor, substitute or replacement nominee for director.

(5) Notwithstanding the foregoing provisions of this Section 2.13, a stockholder shall also comply with all applicable requirements of state and federal law, including, without limitation, the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 2.13 (including, without limitation, Rule 14a-19 under the Exchange Act). Unless otherwise required by law, if any stockholder (i) provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act and (ii) subsequently fails to comply with any of the requirements of Rule 14a-19(a)(2) and 14a-19(a)(3) promulgated under the Exchange Act, then the Corporation shall disregard any proxies or votes solicited for such proposed nominees and such nomination shall be disregarded. Upon request by the Corporation, if any stockholder provides notice pursuant to Rule 14a-19(a)(1) promulgated under the Exchange Act, such stockholder shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting of stockholders, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act. Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for exclusive use by the Corporation.

Section 2.14 Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee for election or reelection as a director of the Corporation, a person nominated by a stockholder for election or reelection to the Board must deliver (in accordance with the time periods prescribed for delivery of notice under Section 2.13 of these Bylaws) to the secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background, qualifications, stock ownership and independence of such proposed nominee (which questionnaire shall be provided by the secretary upon written request), and a written representation and agreement (in the form provided by the secretary upon written request) that such individual (a) is not and will not become a party to (i) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation, or (ii) any Voting Commitment that could limit or interfere with such individual's ability to comply, if elected as a director of the Corporation, with such individual's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, and (c) if elected as a director of the Corporation, will comply, with all applicable corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation applicable to directors and in effect during such person's term in office as a director.

Section 2.15 Remote Communications. Stockholders may participate in a meeting of stockholders by means of any electronic communications, videoconferencing, teleconferencing or other available technology permitted under the NRS. If any such means are utilized, the Corporation shall, to the extent required under the NRS, implement reasonable measures to (a) verify the identity of each person participating through such means as a stockholder, and (b) provide the stockholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting in a substantially concurrent manner with such proceedings. For the purposes of establishing a quorum and taking any action at the meeting, participation in a meeting pursuant to this Section 2.15 constitutes presence in person at the meeting. A meeting of stockholders may be held solely by remote communication pursuant to this Section 2.15.

ARTICLE III
BOARD OF DIRECTORS

Section 3.1 General Powers. The business of the Corporation shall be managed by the Board.

Section 3.2 Number; Tenure. Unless otherwise provided in the Articles of Incorporation, the number of directors shall be no less than three (3) directors and no more than seven (7) directors, with the number of directors within the foregoing fixed minimum and maximum established and changed from time to time as provided by resolutions adopted by the Board. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his or her term of office. Each director shall hold office until the annual meeting of stockholders next held after his or her election and until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. No provision of this Section 3.2 shall restrict the right of the Board (or, to the extent, if any, permitted under the Articles of Incorporation, stockholders) to fill vacancies or upon the right of the stockholders to remove directors, each as provided in these Bylaws.

Section 3.3 Chairperson. The Board shall appoint one of its members to serve as the Chairperson to serve at the pleasure of the Board. The Chairperson shall, if present, preside at meetings of stockholders of the Corporation and at meetings of the Board. The Chairperson shall have such other duties and responsibilities as may from time to time be assigned to him or her by the Board or prescribed by these Bylaws. The Chairperson may, but need not be, an employee of the Corporation.

Section 3.4 Vacancies. Subject to any rights of the holders of preferred stock, if any, vacancies on the Board, including vacancies resulting from newly created directorships, may be filled only by the affirmative vote of a majority of the remaining directors, even if less than a quorum, or by a sole remaining director. A director elected to fill a vacancy shall hold office for a term expiring at the next annual meeting of stockholders and until such director's successor shall have been duly elected and qualified.

Section 3.5 Removal and Resignation of Directors. Subject to any rights of the holders of preferred stock, if any, and except as otherwise provided in the NRS, any director, or the entire Board, may be removed from office by a vote of stockholders representing not less than two-thirds of the voting power of the issued and outstanding stock entitled to vote at an annual or special meeting of the stockholders duly noticed and called in accordance with the Bylaws. Any director may resign effective upon giving written notice to the Board, unless the notice specifies a later time for effectiveness.

Section 3.6 Regular Meetings. A regular meeting of the Board shall be held annually, immediately after, and at the same place as, the annual meeting of stockholders, or such other date, time and place as the Board may determine. The Board may, by resolution, provide the date, time and place, if any, for the holding of additional regular meetings.

Section 3.7 Special Meetings. Special meetings of the Board may be called by the Chairperson, the chief executive officer, if any, the president, or by any two of the directors and shall be held on such date and at such time and place as may be designated in the notice of such meeting.

Section 3.8 Notice of Meetings.

(a) No notice need be given of any annual or regular meeting of the Board.

(b) For each special meeting of the Board, there shall be delivered to each director at the address appearing for him or her on the records of the Corporation, at least twenty-four (24) hours before the time of such meeting, a copy of a written notice of such meeting (i) by delivery of such notice personally, (ii) by mailing such notice postage prepaid, (iii) by facsimile, (iv) by overnight courier, or (v) by electronic transmission or electronic writing, including, but not limited to, email. If mailed to an address inside the United States, the notice shall be deemed delivered five (5) business days following the date the same is deposited in the United States mail, postage prepaid. If mailed to an address outside the United States, the notice shall be deemed delivered seven (7) business days following the date the same is deposited in the United States mail, postage prepaid. If sent via overnight courier, the notice shall be deemed delivered the business day following the delivery of such notice to the courier. If sent via facsimile, the notice shall be deemed delivered upon sender's receipt of confirmation of the successful transmission. If sent by electronic transmission (including, without limitation, e-mail), the notice shall be deemed delivered when directed to the e-mail address of the director appearing on the records of the Corporation, and otherwise pursuant to the applicable provisions of NRS Chapter 75. If the address of any director is incomplete or does not appear upon the records of the Corporation it will be sufficient to address any notice to such director at the registered office of the Corporation. Any director may waive notice of any meeting, and the attendance of a director at a meeting and oral consent entered on the minutes of such meeting shall constitute waiver of notice of the meeting unless such director objects, prior to the transaction of any business, that the meeting was not lawfully called, noticed or convened. Attendance for the express purpose of objecting to the transaction of business thereat because the meeting was not properly called or convened shall not constitute presence or a waiver of notice for purposes hereof.

Section 3.9 Quorum and Voting; Adjourned Meetings.

(a) A majority of the directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board.

(b) Unless otherwise provided by law, the Articles of Incorporation or these Bylaws, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board.

(c) At any meeting of the Board where a quorum is not present, a majority of those present may adjourn, from time to time, until a quorum is present, and no notice of such adjournment shall be required. At any adjourned meeting where a quorum is present, any business may be transacted which could have been transacted at the meeting originally called.

Section 3.10 Action Without a Meeting. Any action required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without a meeting if, before or after the action, all directors or committee members consent thereto in writing, except that such consent need not be signed by any director who is not required to sign pursuant to NRS 78.315(2). The written consent may be signed manually or electronically (or by any other means then permitted under the NRS), and may be so signed in counterparts, including, without limitation, facsimile or email counterparts, and the written consent shall be filed with the minutes of proceedings of the Board or committee.

Section 3.11 Telephonic and Electronic Communications. Members of the Board or of any committee designated by the Board may participate in a meeting of the Board or such committee through electronic communications, videoconferencing, teleconferencing or other available technology permitted under the NRS. If any such means are utilized, the Corporation shall, to the extent required under the NRS, implement reasonable measures to (a) verify the identity of each person participating through such means as a director or member of the committee, as the case may be; and (b) provide the directors or members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the directors or members, as the case may be, including an opportunity to communicate and to read or hear the proceedings of the meeting in a substantially concurrent manner with such proceedings. For the purposes of establishing a quorum and taking any action at the meeting, such directors or members of the committee, as the case may be, participating pursuant to this Section 3.11 shall be deemed present in person at the meeting.

Section 3.12 Committees of Directors. The Board may designate and appoint one or more committees as the Board considers appropriate, which shall consist of one or more directors of the Corporation. Persons who are not directors of the Corporation are not eligible to serve on committees of the Board. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Each committee, to the extent provided in the resolution of the Board creating same, shall have and may exercise such of the powers and authority of the Board in the management of the business and affairs of the Corporation as the Board may direct and delegate, except, however, those matters which are required by statute to be reserved unto or acted upon by the entire Board. Each committee shall keep written minutes of its proceedings and shall report such proceedings to the Board as appropriate. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve, any such committee.

Section 3.13 Compensation. The Board, without regard to personal interest, may establish the compensation of directors for services in any capacity. If the Board establishes the compensation of directors pursuant to this Section 3.13, such compensation is presumed to be fair to the Corporation unless proven unfair by a preponderance of the evidence. The directors may be paid their expenses, if any, of attendance at each meeting of the Board and may be paid a fixed sum for attendance at each meeting of the Board or a stated salary or other compensation as a director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Any director of the Corporation may decline any or all such compensation payable to such director in his or her discretion.

Section 3.14 Presumption of Assent. A director of the Corporation who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward any dissent by certified or registered mail to the secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

ARTICLE IV
OFFICERS

Section 4.1 Elected Officers. The Board shall elect and appoint a president, a secretary and a treasurer. The Board may from time to time, by resolution, elect or appoint such other officers and agents as it may deem advisable, who shall hold office at the pleasure of the Board, and shall have such powers and duties and be paid such compensation as may be directed by the Board. Any individual may hold two or more offices.

Section 4.2 Removal; Resignation. Any officer elected or appointed by the Board may be removed by the Board with or without cause. Any officer may resign at any time upon written notice to the Corporation. Any such removal or resignation shall be subject to the rights, if any, of the respective parties under any contract between the Corporation and such officer or agent.

Section 4.3 Vacancies. A newly created officer position and a vacancy in any elected officer position because of death, resignation, or removal may be filled by the Board.

Section 4.4 Chief Executive Officer. The Board may appoint a chief executive officer who, subject to the supervision and control of the Board, shall have the ultimate responsibility for the management and control of the business and affairs of the Corporation, and shall perform such other duties and have such other powers which are delegated to him or her by the Board, these Bylaws or as may be provided by law.

Section 4.5 President. The president, subject to the supervision and control of the Board, shall in general actively supervise and control the business and affairs of the Corporation. The president shall keep the Board fully informed as the Board may request and shall consult the Board concerning the business of the Corporation. The president shall perform such other duties and have such other powers which are delegated and assigned to him or her by the Board, the chief executive officer, if any, these Bylaws or as may be provided by law.

Section 4.6 Chief Financial Officer. The Board may appoint a chief financial officer. The chief financial officer shall in general have overall supervision of the financial operations of the Corporation. The chief financial officer shall perform such other duties and have such other powers which are delegated and assigned to him or her by the Board, the chief executive officer, if any. the president, these Bylaws or as may be provided by law.

Section 4.7 Vice Presidents. The Board may appoint one or more vice presidents. In the absence or disability of the president, or at the president's request, the vice president or vice presidents, in order of their rank as fixed by the Board, and if not ranked, the vice presidents in the order designated by the Board, or in the absence of such designation, in the order designated by the president, shall perform all of the duties of the president, and when so acting, shall have all the powers of, and be subject to all the restrictions on the president. Each vice president shall perform such other duties and have such other powers which are delegated and assigned to him or her by the Board, the chief executive officer, if any, the president, these Bylaws or as may be provided by law.

Section 4.8 Secretary. The secretary shall keep or cause to be kept, in one or more books provided for that purpose, the minutes of all meetings of the Board, the committees of the Board and the stockholders. The secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by applicable law. The secretary shall see that the books, reports, statements, certificates and other documents and records required by applicable law to be kept and filed are properly kept and filed. The secretary shall perform all other duties commonly incident to his or her office and shall perform such other duties which are assigned to him or her by the Board, the chief executive officer, if any, the president, these Bylaws or as may be provided by law.

Section 4.9 Assistant Secretaries. An assistant secretary, if appointed by the Board, shall, at the request of the secretary, or in the absence or disability of the secretary, perform all the duties of the secretary. He or she shall perform such other duties as are assigned to him or her by the Board, the chief executive officer, if any, the president, the secretary, these Bylaws or as may be provided by law.

Section 4.10 Treasurer. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall perform all other duties commonly incident to his or her office and such other duties as may, from time to time, be assigned to him or her by the Board, the chief executive officer, if any, the president, these Bylaws or as may be provided by law.

Section 14.11 Assistant Treasurers. An assistant treasurer, if appointed by the Board, shall, at the request of the Treasurer, or in the absence or disability of the Treasurer, perform all the duties of the Treasurer. He or she shall perform such other duties which are assigned to him or her by the Board, the chief executive officer (if any), the president, the treasurer, these Bylaws or as may be provided by law.

Section 4.12 Execution of Negotiable Instruments, Deeds and Contracts. All checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Corporation; all deeds, mortgages, proxies, powers of attorney and other written contracts, documents, instruments and agreements to which the Corporation shall be a party; and all assignments or endorsements of stock certificates, registered bonds or other securities owned by the Corporation shall be signed in the name of the Corporation by such officers or other persons as the Board may from time to time designate. Such authority may be general or confined to specific instances as the Board may determine. The Board may authorize the use of the facsimile signatures of any such persons.

ARTICLE V
SHARES AND TRANSFERS

Section 5.1 Issuance of Stock. The Board is authorized to cause to be issued stock of the Corporation up to the full amount authorized by the Articles of Incorporation in such amounts and for such consideration as may be determined by the Board.

Section 5.2 Stock Certificates and Uncertificated Shares.

(a) The shares of stock of the Corporation shall be represented by a certificate, provided that the Board may authorize the issuance of uncertificated shares of some or all of any or all classes or series of the stock of the Corporation. Any such issuance of uncertificated shares shall have no effect on existing certificates for shares until such certificates are surrendered to the Corporation, or on the respective rights and obligations of the stockholders.

(b) Each certificate representing shares shall be numbered in the order in which they shall be issued and shall be signed in the name of the Corporation by the chief executive officer, if any, the president or a vice president, and by the secretary or an assistant secretary, of the Corporation (or any other two officers or agents so authorized by the Board). Each certificate representing shares shall state the following: (i) the name of the Corporation and that it is organized under the laws of Nevada; (ii) the name of the person to whom the certificate is issued; (iii) the number and class of shares and the designation of the series, if any, which such certificate represents; the par value of each share, if any, represented by such certificate or a statement that the shares are without par value, and (iv) any restrictions on the transfer of the shares. Certificates of stock shall be in such form consistent with law as shall be prescribed by the Board. No certificate shall be issued until the shares represented thereby are fully paid. In addition to the foregoing, all certificates evidencing shares of the Corporation's stock or other securities issued by the Corporation shall contain such legend or legends as may from time to time be required by federal, state or local laws or regulations then in effect.

(c) Within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation shall send to the registered owner of the shares a written notice containing the information required to be set forth or stated on certificates pursuant to the NRS and, at least annually thereafter, the Corporation shall provide to such stockholders of record holding uncertificated shares, a written statement confirming the information contained in such written statement previously sent. Except as otherwise expressly provided by law, the rights and obligations of the stockholders shall be identical whether or not their shares of stock are represented by certificates.

Section 5.3 Transfer of Stock. Transfer of stock on the books of the Corporation may be authorized only by the record holder of such stock, the holder's legal representative or the holder's attorney lawfully constituted in writing and, in the case of stock represented by a certificate or certificates, upon surrender of the certificate or the certificates for such stock, and, in the case of uncertificated stock, upon receipt of proper transfer instructions and compliance with appropriate procedures for transferring stock in uncertificated form (in each case, with such proof of the authenticity of signature as the Corporation or its transfer agent may reasonably require). Every certificate surrendered to the Corporation for exchange or transfer shall be cancelled, and no new certificate or certificates shall be issued in exchange for any existing certificate until such certificate shall have been so cancelled, except in cases provided for in Section 5.4. The Corporation may treat as the absolute owner of stock of the Corporation the person or persons in whose name stock is registered on the books of the Corporation. Subject to the Articles of Incorporation, the Board may from time to time establish rules and regulations governing the issuance, transfer and registration of shares of stock of the Corporation.

Section 5.4 Loss of Certificates. Any stockholder claiming a certificate for stock to be lost, stolen, mutilated or destroyed shall make an affidavit of that fact in such form as the Board may require and shall, if the Board so requires, give the Corporation a bond of indemnity in form, in an amount, and with one or more sureties satisfactory to the Board, to indemnify the Corporation against any claims which may be made against it on account of the alleged loss, theft or destruction of the certificate or issuance of such new certificate. The Corporation may then issue (a) a new certificate or certificates of stock or (b) uncertificated shares, for the same number of shares represented by the certificate claimed to have been lost, stolen, mutilated or destroyed.

Section 5.5 Facsimile Signatures. Whenever any certificate is countersigned by a transfer agent or by a registrar other than the Corporation or its employee, then the signatures of the officers or agents of the Corporation may be a facsimile. In case any officer who has signed or whose facsimile signature has been placed on any such certificate shall cease to be such officer before such certificate has been delivered by the Corporation, such certificate may be issued and delivered by the Corporation as though the person who signed such certificate or whose facsimile signature or signatures had been placed thereon were such officer at the date of issue.

ARTICLE VI
INDEMNIFICATION

Section 6.1 Indemnification and Insurance.

(a) **Indemnification of Directors and Officers.**

(i) For purposes of this Article, (A) "Indemnitee" shall mean each director or officer who was or is a party to, or is threatened to be made a party to, or is otherwise involved (including as a non-party witness, deponent, or recipient of a subpoena) in, any Proceeding (as hereinafter defined), by reason of the fact that he or she is or was a director, officer employee or agent (including, without limitation, as a trustee, fiduciary, administrator or manager) of the Corporation or any predecessor entity thereof, or is or was serving in any capacity at the request of the Corporation as a director, officer, employee or agent (including, without limitation, as a trustee, fiduciary, administrator, partner, member or manager) of, or in any other capacity for, another corporation or any partnership, joint venture, limited liability company, trust, or other enterprise; and (B) "Proceeding" shall mean any threatened, pending, or completed action, suit or proceeding (including, without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative, or investigative.

(ii) Each Indemnitee shall be indemnified and held harmless by the Corporation to the fullest extent permitted by Nevada law, against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, taxes, penalties, and amounts paid or to be paid in settlement) reasonably incurred or suffered by the Indemnitee in connection with any Proceeding; *provided that* such Indemnitee either is not liable pursuant to NRS 78.138 or acted in good faith and in a manner such Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any Proceeding that is criminal in nature, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the Indemnitee is liable pursuant to NRS 78.138 or did not act in good faith and in a manner in which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, or that, with respect to any criminal proceeding he or she had reasonable cause to believe that his or her conduct was unlawful. The Corporation shall not indemnify an Indemnitee for any claim, issue or matter as to which the Indemnitee has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Corporation or for any amounts paid in settlement to the Corporation, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such amounts as the court deems proper. Except as so ordered by a court and for advancement of expenses pursuant to this Section 6.1, indemnification may not be made to or on behalf of an Indemnitee if a final adjudication establishes that his or her acts or omissions involved intentional misconduct, fraud or a knowing violation of law and was material to the cause of action. Notwithstanding anything to the contrary contained in these Bylaws, no director or officer may be indemnified for expenses incurred in defending any threatened, pending, or completed action, suit or proceeding (including, without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, that such director or officer incurred in his or her capacity as a stockholder.

(iii) Indemnification pursuant to this Section 6.1 shall continue as to an Indemnitee who has ceased to be a director or officer of the Corporation or who has ceased to serve, at the request of the Corporation, as a director, officer, employee, agent, trustee, fiduciary, administrator, partner, member or manager of, or in any other capacity for, another corporation or any partnership, joint venture, limited liability company, trust, or other enterprise, and such indemnification shall inure to the benefit of such Indemnitee's heirs, executors and administrators.

(iv) The expenses of Indemnitees must be paid by the Corporation or through insurance purchased and maintained by the Corporation or through other financial arrangements made by the Corporation, as such expenses are incurred and in advance of the final disposition of the Proceeding, upon receipt of an undertaking by or on behalf of such Indemnitee to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Corporation. To the extent that an Indemmitee is successful on the merits or otherwise in defense of any Proceeding, or in the defense of any claim, issue or matter therein, the Corporation shall indemnify him or her against expenses, including, without limitation, attorneys' fees, actually and reasonably incurred by him or her in connection with the defense.

(b) **Indemnification of Employees and Other Persons**. The Corporation may, by action of its Board and to the extent provided in such action, indemnify employees and other persons as though they were Indemnitees.

(c) **Non-Exclusivity of Rights**. The rights to indemnification provided in this Article VI shall not be exclusive of any other rights that any person may have or hereafter acquire under any statute, provision of the Articles of Incorporation or these Bylaws, agreement, vote of stockholders or directors, or otherwise.

(d) **Insurance.** The Corporation may purchase and maintain insurance or make other financial arrangements on behalf of any Indemnitee for any liability asserted against him or her and liability and expenses incurred by him or her in his or her capacity as a director, officer, employee, member, managing member or agent, or arising out of his or her status as such, whether or not the Corporation has the authority to indemnify him or her against such liability and expenses.

(e) **Other Financial Arrangements**. The other financial arrangements which may be made by the Corporation may include, without limitation, the following: (i) the creation of a trust fund; (ii) the establishment of a program of self-insurance; (iii) the securing of its obligation of indemnification by granting a security interest or other lien on any assets of the Corporation; and (iv) the establishment of a letter of credit, guarantee or surety. No financial arrangement made pursuant to this subsection may provide protection for a person adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable for intentional misconduct, fraud, or a knowing violation of law, except with respect to advancement of expenses or indemnification ordered by a court.

(f) **Other Matters Relating to Insurance or Financial Arrangements**. Any insurance or other financial arrangement made on behalf of a person pursuant to this Section 6.1 may be provided by the Corporation or any other person approved by the Board, even if all or part of the other person's stock or other securities are owned by the Corporation. In the absence of fraud (i) the decision of the Board as to the propriety of the terms and conditions of any insurance or other financial arrangement made pursuant to this Section 6.1 and the choice of the person to provide the insurance or other financial arrangement is conclusive; and (ii) the insurance or other financial arrangement is not void or voidable and does not subject any director approving it to personal liability for his action; even if a director approving the insurance or other financial arrangement is a beneficiary of the insurance or other financial arrangement.

Section 6.2 Amendment. The provisions of this Article VI relating to indemnification shall constitute a contract between the Corporation and each of its directors and officers which may be modified as to any director or officer only with that person's consent or as specifically provided in this Section 6.2. Notwithstanding any other provision of these Bylaws relating to their amendment generally, any repeal or amendment of this Article VI which is adverse to any director or officer shall apply to such director or officer only on a prospective basis, and shall not limit the rights of an Indemnitee to indemnification with respect to any action or failure to act occurring prior to the time of such repeal or amendment. Notwithstanding any other provision of these Bylaws (including, without limitation, Article X), no repeal or amendment of these Bylaws shall affect any or all of this Article VI so as to limit or reduce the indemnification in any manner unless adopted by (a) the unanimous vote of the directors of the Corporation then serving, or (b) a vote of stockholders representing not less than two-thirds of the voting power of the issued and outstanding stock entitled to vote at an annual or special meeting of the stockholders duly noticed and called in accordance with the Bylaws; provided that no such amendment shall have a retroactive effect inconsistent with the preceding sentences of this Section.

ARTICLE VII
CHANGES IN LAW

References in these Bylaws to Nevada law, the NRS, the Exchange Act, rules promulgated under the Exchange Act, or to any provision of any of the foregoing shall be to such law or rule as it existed on the date these Bylaws were adopted or as such law or rule thereafter may be changed; *provided* that (a) in the case of any change which expands the liability of directors or officers or limits the indemnification rights or the rights to advancement of expenses which the Corporation may provide in Article VI hereof, the rights to limited liability, to indemnification and to the advancement of expenses provided in the Articles of Incorporation and/or these Bylaws shall continue as before such change to the extent permitted by law; and (b) if such change permits the Corporation, without the requirement of any further action by stockholders or directors, to limit further the liability of directors or limit further the liability of officers or to provide broader indemnification rights or rights to the advancement of expenses than the Corporation was permitted to provide prior to such change, then liability thereupon shall be so limited and the rights to indemnification and the advancement of expenses shall be so broadened to the extent permitted by law.

ARTICLE VIII
DISTRIBUTIONS

Section 8.1 Declaration. Distributions may be declared, subject to the provisions of the laws of the State of Nevada and the Articles of Incorporation, by the Board and may be paid in cash, property, shares of corporate stock, or any other medium.

Section 8.2 Fixing Record Dates for Distributions and Share Dividends. For the purpose of determining stockholders entitled to receive a distribution by the Corporation (other than a distribution involving a purchase or redemption by the Corporation of any of its own shares) or a share dividend, the Board may, at the time of declaring the distribution or share dividend, set a date no more than 60 days prior to the date of the distribution or share dividend; *provided* that the record date so fixed for such distribution or share dividend must not precede the date on which the Board adopted the resolution declaring such distribution or share dividend. If no record date is fixed for such distribution or share dividend, the record date shall be the date on which the resolution of the Board authorizing the distribution or share dividend is adopted.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Books and Records. Any records maintained by the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to applicable law.

Section 9.2 Fiscal Year. The fiscal year of the Corporation shall end on December 31 of each year.

ARTICLE X
AMENDMENTS

Except as otherwise expressly provided in these Bylaws, these Bylaws may be amended, revised, or repealed or new bylaws may be made adopted, only by a vote of (a) a majority of the Board, or (b) stockholders representing not less than a majority of the voting power of the issued and outstanding stock entitled to vote at an annual or special meeting of the stockholders duly noticed and called in accordance with the Bylaws.

ARTICLE XI
FORUM SELECTION

To the fullest extent permitted by law, and unless the Corporation consents in writing to the selection of an alternative forum, the Eighth Judicial District Court of Clark County, Nevada (or, if that court does not have jurisdiction, the federal district court for the District of Nevada or other state courts of the State of Nevada) shall, to the fullest extent permitted by law, be the exclusive forums for (a) any derivative action or proceeding brought in the name or right of the Corporation or on the Corporation's behalf, (b) any action asserting or based upon a claim of breach of any duty owed by any director, officer, employee or agent of the Corporation to the Corporation or to the Corporation's stockholders, (c) any action or assertion of a claim arising pursuant to any provision of Chapter 78 or Chapter 92A of the NRS or the Articles of Incorporation or these Bylaws (as each may be amended from time to time), (d) any action to interpret, apply, enforce or determine the validity of the Articles of Incorporation or these Bylaws or (e) any action asserting a claim against the Corporation governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of, and consented to, the provisions of this Article XI.

CERTIFICATE OF SECRETARY

I certify that I am the Secretary of OptimizeRx Corporation, a Nevada corporation, and that the foregoing Third Amended and Restated Bylaws constitute the bylaws of OptimizeRx Corporation as duly adopted by the Board of Directors as of March 7, 2023.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7th day of March 2023.

/s/ Marion Odence-Ford

Marion Odence-Ford
Secretary

Exhibit 10.18

OPTIMIZERX CORPORATION
EXECUTIVE SEVERANCE PLAN

Plan Document/Summary Plan Description

OptimizeRx Corporation (the "Company") has adopted this OptimizeRx Corporation Executive Severance Plan (the "Plan") for the benefit of certain employees of the Company and its subsidiaries (hereinafter referred to as the "Company Group"), on the terms and conditions hereinafter stated, effective as of the Effective Date.

The Plan is not intended to be an "employee pension benefit plan" or "pension plan" within the meaning of Section 3(2) of ERISA. Rather, the Plan is intended to be a "welfare benefit plan" within the meaning of Section 3(1) of ERISA and to meet the descriptive requirements of a plan constituting a "severance pay plan" within the meaning of regulations published by the Secretary of Labor at Title 29, Code of Federal Regulations, Section 2510.3-2(b). Accordingly, any benefits paid pursuant to the terms of the Plan are not deferred compensation for purposes of ERISA, and no Participant shall have a vested right to such benefits. To the extent applicable, it is intended that portions of the Plan either comply with or be exempt from the provisions of Section 409A of the Code. The Plan shall be administered in a manner consistent with this intent and any provision that would cause the Plan to fail to either constitute a welfare benefit plan under ERISA or comply with or be exempt from Section 409A of the Code, as the case may be, shall have no force and effect. This document serves as both the plan document as required under Section 402 of ERISA as well as a summary plan description as required under Section 104(b) of ERISA.

1. **Definitions**. Capitalized terms used in this Plan shall have the meanings ascribed to such terms in Appendix A.

2. **Eligibility**.

Except as otherwise provided under the Plan, each Participant is eligible to receive severance pay and severance benefits under the Plan if such Participant:

(a) remains in the employ of the Employer through the date of a Covered Termination, death or Disability;

(b) fulfills the normal responsibilities of such Participant's position, including, but not limited to, meeting regular attendance, specific transitional activities, workload and other standards of the Employer,

(c) executes and does not revoke the Release Agreement; and

(d) complies with and, during the term of the Severance Period (and in some instances, for some period following the expiration of the Severance Period in accordance with the terms of the BPA), remains compliant with, all the terms of such BPA.

3. **Termination of Employment**.

(a) Payments on Covered Termination. If a Participant designated on Appendix B hereto undergoes a Covered Termination, in addition to any Accrued Obligations, subject to such Participant's execution, delivery to the Company, and non-revocation of a Release Agreement, as contemplated in subsection (e) below, and continued compliance with the BPA during the Severance Period (and in some instances, for some period following the expiration of the Severance Period in accordance with the terms of the BPA), such Participant shall be entitled to the following payments and benefits:

(i) the Target Bonus, which will be payable to the Participant in a lump sum within 60 days following the date of termination, and

(ii) (A) the applicable Cash Severance Amount set forth on Appendix B, payable in substantially equal installments as continuous pay in accordance with the Company's payroll practices as in effect from time to time over the applicable number of months set forth on Appendix B, commencing on the 60th day following the date of termination, *provided* that the first such payment shall include all amounts that would have been paid to the Participant in accordance with the Company's payroll practices if such payments had begun on the date of the Participant's Covered Termination; and (B) the COBRA Payment, payable in monthly installments during the Subsidized COBRA Period (or apply such amount to the payment of such continuation coverage), commencing on the 60th day following the date of termination, *provided* that the first such payment shall include all amounts that would have been paid or provided to Participant in accordance with the Company's payroll practices if such payments had begun on the date of the Participant's Covered Termination.

(b) Payments on Change in Control Covered Termination. If a Participant undergoes a Change in Control Covered Termination, subject to such Participant's execution, delivery to the Company, and non-revocation of a Release Agreement, as contemplated in subsection (e) below, and continued compliance with the BPA during the Severance Period (and in some instances, for some period following the expiration of the Severance Period in accordance with the terms of the BPA), such Participant shall be entitled to the following payment in addition to the payments and benefits set forth in Section 3(a): a lump-sum cash payment equal to the applicable CIC Covered Termination Payment Amount set forth on Appendix C, payable within 60 days following the later of (A) the date of the Participant's Change in Control Covered Termination or (B) the closing date of the applicable Change in Control.For the avoidance of doubt, if a Participant's name is not set forth on Appendix C hereto, such Participant is ineligible to receive any payments under this Section 3(b).

Payments and benefits described under subsections (a) and (b) may be made by the Company or any other member of the Company Group, as determined by the Company in its sole discretion, including, without limitation, the Employer.

(c) Payments on Death or Disability. In the event a Participant's employment with the Employer is terminated due to such Participant's death or Disability, in addition to any Accrued Obligations, the Participant (or the Participant's estate, as applicable) shall receive the Target Bonus, payable in a lump sum within 60 days following the date of termination; *provided*, *however*, in the case of the Participant's termination due to Disability, the Participant must execute, deliver to the Company, and not revoke the Release Agreement, as contemplated in subsection (e) below, and continue to comply with the BPA during the Severance Period (and in some instances, for some period following the expiration of the Severance Period in accordance with the terms of the BPA).

(d) Other Termination Events. If a Participant's employment is terminated for any reason other than pursuant to a Covered Termination, death or Disability, such Participant shall not be entitled to the Severance Pay or other benefits under the Plan.

(e) Release Agreement. Notwithstanding any provision herein to the contrary, the payment of any amount or provision of any benefit pursuant to this Section 3 (other than the Accrued Obligations) shall be conditioned upon a Participant's execution, delivery to the Company, and non-revocation of the Release Agreement (and the expiration of any revocation period contained in such Release Agreement) within 60 days following the date of a Covered Termination. If a Participant fails to execute the Release Agreement in such a timely manner or timely revokes his or her acceptance of such release following its execution, such Participant shall not be entitled to Severance Pay or any other benefits under the Plan. Further, to the extent that any of the payments hereunder constitute "nonqualified deferred compensation" for purposes of Section 409A of the Code, any payment of any amount or provision of any benefit otherwise scheduled to occur prior to the 60th day following the date of such Covered Termination, but for the condition of executing the Release Agreement as set forth herein, shall not be made until the first regularly scheduled payroll date following such 60th day, after which any remaining payments shall thereafter be provided to the Participant according to the applicable schedule set forth herein.

(f) Clawback/Forfeiture. Notwithstanding any provision herein to the contrary, the payment of any amount or provision of any benefit pursuant to subsections (a) or (b) above (other than the Accrued Obligations) shall be conditioned upon and subject to the Clawback Policy.

4. **Treatment of Awards**.

Any outstanding Awards granted to the Participant under (i) the Stock Plan shall vest in accordance with the terms of the Stock Plan and the applicable award agreement, or (ii) the Company's 2013 Equity Incentive Plan, as amended, shall vest in accordance with the terms of the 2013 Equity Incentive Plan, as amended, and the applicable award agreement.

5. **Additional Terms**.

(a) Taxes. Severance and other payments and benefits under the Plan will be subject to all required federal, state and local taxes and may be affected by any legally required withholdings. Payments under the Plan are not deemed "compensation" for purposes of the retirement plans, savings plans, and incentive plans of the Company Group. Accordingly, no deductions will be taken for any retirement and savings plan and such plans will not accrue any benefits attributable to payments under the Plan.

(b) Set-Off; Mitigation. The Company's obligation to pay the Participant the amounts provided and to make the arrangements provided hereunder shall not be subject to set-off, counterclaim, or recoupment of amounts owed by the Participant to the Company or its Affiliates. The Participant shall not be required to mitigate the amount of any payment provided pursuant to the Plan by seeking other employment or otherwise, and the amount of any payment provided for pursuant to the Plan shall not be reduced by any compensation earned as a result of the Participant's other employment or otherwise.

(c) Specified Employees. Notwithstanding anything herein to the contrary, if (i) at the time of a Participant's Covered Termination, such Participant is a "specified employee" as defined in Section 409A of the Code, and the deferral of the commencement of any payments or benefits otherwise payable hereunder as a result of such termination of employment is necessary in order to prevent the imposition of any accelerated or additional tax under Section 409A of the Code, then the commencement of the payment of any such payments or benefits hereunder will be deferred (without any increase or decrease in such payments or benefits ultimately paid or provided to the Participant) until the date that is six months following such Participant's Covered Termination (or the earliest date that is permitted under Section 409A of the Code), and (ii) any other payments of money or other benefits due to the Participant hereunder would cause the application of an accelerated or additional tax under Section 409A of the Code, such payments or other benefits shall be deferred if deferral will make such payment or other benefits compliant under Section 409A of the Code, or otherwise such payment or other benefits shall be restructured, to the extent possible, in a manner, determined by or at the direction of the Committee, that does not cause such an accelerated or additional tax or result in additional cost to the Company. The Company shall consult with its legal counsel and tax advisors in good faith regarding the implementation of this Section 5(c); *provided*, *however*, that none of the Company any other member of the Company Group, or any of their respective employees or representatives, shall have any liability to the Participant with respect thereto.

6. **Termination or Amendment of the Plan**.

The Plan may be amended, terminated or discontinued in whole or in part, at any time and from time to time at the discretion of the Board or the Committee; *provided*, *however*, that no such amendment, termination or discontinuance shall, without a Participant's consent, adversely affect any Participant that has undergone a Covered Termination prior to the effective date of any such amendment, termination or discontinuance; *provided further*, that following (x) the date the Company has entered into an agreement the consummation of which would result in a Change in Control (until such time as the Change in Control occurs or such agreement is terminated) or (y) a Change in Control, the Plan may not be amended, terminated or discontinued in whole or in part, at any time prior to the second anniversary of the date of such Change in Control without the written consent of each affected Participant.

7. **Limitation of Certain Payments**.

Except as otherwise provided in an individual employment agreement, in the event that any payments and/or benefits due to a Participant under the Plan and/or any other arrangements are determined by the Company to constitute "excess parachute payments" as defined under Section 280G of the Code, any cash severance payable under the Plan shall be reduced by the minimum amount necessary, subject to the last sentence of this paragraph, such that the present value of such "parachute payments" (as defined under Section 280G of the Code) is below 300% of such Participant's "base amount" (as defined under Section 280G of the Code). Notwithstanding the foregoing, no payments or benefits shall be reduced under this Section 7 unless (a) the net amount of such payments and benefits, as so reduced (and after subtracting the net amount of federal, state and local income taxes on such reduced payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such reduced payments and benefits), is greater than or equal to (b) the net amount of such payments without such reduction (but after subtracting the net amount of federal, state and local income taxes on such payments and benefits and the amount of excise tax imposed under Section 4999 of the Code as to which such Participant would be subject in respect of such unreduced payments and benefits and after taking into account the phase out of itemized deductions and personal exemptions attributable to such unreduced payments). For purposes hereof, (i) the order in which any amounts are deemed to be reduced, if applicable, is (A) cash payments, (B) other non-cash forms of benefits, and (C) equity-based payments and acceleration of vesting, and (ii) within any such category of payments and benefits (that is, (i)(A), (i)(B) or (i)(C) above), (A) a reduction shall occur first with respect to amounts that are not "deferred compensation" within the meaning of Section 409A of the Code and then with respect to amounts that are and (B) to the extent that any such amounts are to be made over time (e.g., in installments, etc.), then the amounts shall be reduced in reverse.

8. **Miscellaneous**.

(a) No Right to Continued Employment. Nothing contained in the Plan shall confer upon any Participant any right to continue in the employ of any member of the Company Group nor interfere in any way with the right of the Company Group to terminate his or her employment, with or without Cause.

(b) Plan Not Funded. Amounts payable under the Plan shall be payable from the general assets of the Company, and no special or separate reserve, fund or deposit shall be made to assure payment of such amounts. No Participant, beneficiary or other Person shall have any right, title or interest in any fund or in any specific asset of the Company by reason of participation hereunder. Neither the provisions of the Plan, nor the creation or adoption of the Plan, nor any action taken pursuant to the provisions of the Plan shall create, or be construed to create, a trust of any kind or a fiduciary relationship between the Company and any Participant, beneficiary or other Person. To the extent that a Participant, beneficiary or other Person acquires a right to receive payment under the Plan, such right shall be no greater than the right of any unsecured general creditor of the Company. Notwithstanding the foregoing, the Company shall have the right to implement or set aside funds in a grantor trust, subject to the claims of the Company's creditors or otherwise, to discharge its obligations under the Plan.

(c) Non-Transferability of Benefits and Interests. All amounts payable under the Plan are non-transferable, and no amount payable under the Plan shall be subject in any manner to sale, transfer, anticipation, alienation, assignment, pledge, encumbrance or charge. This Section 9(c) shall not apply to an assignment of a contingency or payment due (i) after the death of a Participant to the deceased Participant's legal representative or beneficiary, or (ii) after the disability of a Participant to the disabled Participant's personal representative.

(d) Discretion of Company, Board and Committee. Any decision made or action taken by, or inaction of, the Company, the Board, or the Committee arising out of or in connection with the creation, amendment, construction, administration, interpretation and effect of the Plan that is within its authority hereunder or applicable law shall be within the absolute discretion of such entity and shall be conclusive and binding upon all Persons.

(e) Indemnification. Neither the Board nor the Committee, nor any employee of the Company, nor any Person acting at the direction thereof (each such Person an "Affected Person"), shall have any liability to any Person (including without limitation, any Participant), for any act, omission, interpretation, construction or determination made in connection with the Plan (or any payment made under the Plan). Each Affected Person shall be indemnified and held harmless by the Company against and from any loss, cost, liability or expense (including attorneys' fees) that may be imposed upon or incurred by such Affected Person in connection with or resulting from any action, suit or proceeding to which such Affected Person may be a party or in which such Affected Person may be involved by reason of any action taken or omitted to be taken under the Plan and against and from any and all amounts paid by such Affected Person, with the Company's approval, in settlement thereof, or paid by such Affected Person in satisfaction of any judgment in any such action, suit or proceeding against such Affected Person; *provided*, that the Company shall have the right, at its own expense, to assume and defend any such action, suit or proceeding and, once the Company gives notice of its intent to assume the defense, the Company shall have sole control over such defense with counsel of the Company's choice. The foregoing right of indemnification shall not be available to an Affected Person to the extent that a court of competent jurisdiction in a final judgment or other final adjudication, in either case, not subject to further appeal, determines that the acts or omissions of such Affected Person giving rise to the indemnification claim resulted from such Affected Person's bad faith, fraud or willful wrongful act or omission. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which Affected Persons may be entitled under the Company's organizational documents, as a matter of law, or otherwise, or any other power that the Company may have to indemnify such Person or hold them harmless.

(f) Section 409A. Notwithstanding any provision of the Plan to the contrary, if any benefit provided under the Plan is subject to the provisions of Section 409A of the Code, the provisions of the Plan will be administered, interpreted and construed in a manner necessary to comply with Section 409A of the Code or an exception thereto. Notwithstanding any provision of the Plan to the contrary, in no event shall the Company (or its employees, officers or directors) have any liability to any Participant (or any other Person) due to the failure of the Plan to satisfy the requirements of Section 409A of the Code or any other applicable law. For purposes of the application of Section 409A of the Code, each payment in a series of payments under this Plan will be deemed a separate payment.

(g) No Duplication; Treatment of Other Severance Arrangements. In no event shall any Participant receive the severance benefits provided for herein in addition to severance benefits provided for under any Other Severance Arrangement; *provided*, that if such Participant is covered by any Other Severance Arrangement, such Participant shall only be entitled to receive the greater of (x) the payments and benefits set forth in this Plan and (y) the payments and benefits set forth in, and subject to the terms, conditions and restrictions of, the Other Severance Arrangement.

(h) Governing Law. All questions pertaining to the construction, regulation, validity and effect of the provisions of the Plan shall be determined in accordance with the laws of the State of Nevada.

(i) Notice. Any notice or other communication required or which may be given pursuant to the Plan shall be in writing and shall be deemed to have been duly given when delivered by hand or overnight courier or two days after it has been mailed by United States express or registered mail, return receipt requested, postage prepaid, addressed to the Company at the address set forth below, or to the Participant at his or her most recent address on file with the Company.

OptimizeRx Corporation
400 Water Street, Suite. 200
Rochester, MI 48307
c/o General Counsel

(j) Captions. Captions and headings are given to the sections and subsections of the Plan solely as a convenience to facilitate reference. Such captions and headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.

(k) Successors. The Plan shall inure to the benefit of and be binding upon the Company and its successors.

Appendix A

Definitions

1. **Definitions**.

(a) "Accrued Obligations" means (i) all accrued but unpaid Base Salary through the date of a Covered Termination, (ii) any unpaid or unreimbursed expenses incurred in accordance with the policies of the Employer, and (iii) any benefits provided under the employee benefit plans and programs of the Company Group in which the Participant participates immediately prior to, and is due upon or continues after, a termination of employment, including rights with respect to Company equity.

(b) "Affiliate" means any entity which, at the time of reference, directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Company.

(c) "Annual Bonus Program" means the annual cash incentive bonus program in which the Participant participates as of the date of such Participant's Covered Termination, if any.

(d) "Anticipatory Termination" means a Covered Termination occurring within the three months prior to the occurrence of a Change in Control; *provided*, that it is reasonably demonstrated that such termination (A) was at the request of a third party who has taken steps reasonably calculated or intended to effect the Change in Control (and such transaction is actually consummated) or (B) otherwise arose in connection with or in anticipation of the Change in Control (and such transaction is actually consummated).

(e) "Asset Sale" means a Change in Control resulting from the consummation of a sale or other disposition of all or substantially all of the assets of the Company.

(f) "Award" has the meaning set forth in the Stock Plan.

(g) "Base Salary" means the Participant's then current annual base salary rate immediately prior to his or her Covered Termination (or, if higher, the annual base salary immediately prior to an event that constitutes Good Reason hereunder).

(h) "Board" means the Board of Directors of the Company.

(i) "Business Protection Agreement" or "BPA" shall mean the Business Protection Agreement executed by Participant, as may be updated or amended from time to time to reflect changes in law and/or differences in applicable state law. BPA shall mean the agreement substantially in the form attached hereto as Exhibit A, as may be updated or amended from time to time to reflect changes in law and/or differences in applicable state law.

(j) "Cash Severance Amount" means, with respect to any Participant, the "Cash Severance Amount," as set forth on Appendix B, as attached hereto, as applicable.

(k) "Cause" means the occurrence of any of the following as determined by the Committee:

(i) the Participant's conviction of, or plea of guilty or *nolo contendere* to, (1) a felony under federal law or the law of the state in which such action occurred or (2) any other crime involving moral turpitude;

(ii) the Participant's willful and continued failure to perform the Participant's employment duties (other than any such failure resulting from the Participant's incapacity due to a Disability); *provided*, *however*, that the Company shall have provided the Participant with written notice that such actions are occurring and, where practical, the Participant has been afforded at least 15 days to cure same;

(iii) the Participant's willfully engaging in misconduct in the performance of the Participant's duties for the Employer (including, but not limited to, theft, fraud, embezzlement and securities law violations, a violation of the Company's "Code of Ethics and Business Conduct" or other written policies, or a material breach of the Business Protection Agreement or any other restrictive covenants to which the Participant is subject) that is materially injurious to the Company, or, in the good faith determination of the Committee, is potentially materially injurious to the Company, monetarily or otherwise.

For purposes of this Section 1(j), no act, or failure to act, on the part of the Participant shall be considered "willful," unless done, or omitted to be done, by the Participant in bad faith and without a reasonable belief that the Participant's action or omission was in, or not opposed to, the best interests of the Company (including reputationally). Prior to any termination for Cause, the Participant will be given five business days written notice specifying the alleged Cause event. After providing the notice in foregoing sentence, the Board or the Chief Executive Officer of the Company may suspend the Participant with full pay and benefits until a final determination has been made.

(l) "Change in Control" has the meaning set forth in the Stock Plan.

(m) "Change in Control Covered Termination" means a (i) a Covered Termination occurring during the two-year period commencing on the date of a Change in Control or (ii) an Anticipatory Termination.

(n) "CIC Covered Termination Payment Amount" means, with respect to any Participant, the "CIC Covered Termination Payment Amount," as set forth on Appendix C, as attached hereto, as applicable.(o) "Clawback Policy" means any clawback, forfeiture or other similar policy adopted by the Board or the Committee from time to time.

(o) "COBRA Payment" means, provided the Participant validly elects continuation coverage under COBRA or similar state law for the Participant, his spouse and/or dependents, an amount equal to the monthly COBRA premium for continued health insurance coverage payable in monthly installments over the number of months in the Subsidized COBRA Period set forth on Appendix B, as attached hereto, as applicable.

(p) "Code" means the Internal Revenue Code of 1986, as amended, and the rules, regulations or other interpretative guidance promulgated thereunder, as well as any successor laws in replacement thereof.

(q) "Committee" means the Compensation Committee of the Board.

(r) "Covered Termination" means a Participant's termination of employment with the Employer by the Employer without Cause or by the Participant for Good Reason; *provided*, *however*, that no such termination shall be considered a Covered Termination if such Participant's employment with the Employer is terminated:

(i) solely by reason of a transfer to the employ of another member of the Company Group;

(ii) upon the expiration of a leave of absence by reason of his or her failure to return to work at such time unless, at such time, there is not an available position for which such Participant is qualified; or

(iii) in connection with an Asset Sale if either (A) in connection with such Asset Sale such Participant was offered employment with the purchaser or an Affiliate thereof in an Asset Sale (I) within a 25-mile radius of such Participant's current work site for a comparable position and (II) with the same or greater Base Salary, and with comparable annual bonus and equity compensation opportunity, and the Participant fails to accept such employment offer, or (B) notwithstanding the comparable terms and conditions of employment being available within a 25-mile radius, such Participant voluntarily elected not to participate in the selection process for employment with the purchaser or an Affiliate thereof in an Asset Sale.

(s) "Disability" means a Participant's substantial inability to perform Participant's duties due to partial or total disability or incapacity resulting from a mental or physical illness, injury or other health-related cause for a period of 90 consecutive days or 180 non-consecutive days in any 12 months period.

(t) "Effective Date" means March 8, 2023.

(u) "Eligible Employee" means each non-union, salaried, full-time employee of the Company Group. Eligible Employees shall, in no event, include: (i) independent contractors, (ii) temporary employees, (iii) individuals treated other than as employees for federal income and employment tax purposes at the time such individual performs services, (iv) employees who are regularly scheduled to work less than 20 hours per week, and (v) individuals who the Company designates as "non-benefits eligible."

(v) "Employer" means, with respect to any Participant, the member of the Company Group by which such Participant is employed.

(w) "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the rules, regulations or other interpretive guidance promulgated thereunder, as well as any successor laws in replacement thereof.

(x) "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules, regulations or other interpretive guidance promulgated thereunder, as well as any successor laws in replacement thereof.

(y) "Good Reason" means the occurrence of any of the following events without the Participant's consent:

(i) a material diminution in the Participant's title, authorities, duties or responsibilities;

(ii) any reduction in the Participant's Base Salary, other than a reduction of not more than 15% implemented in connection with an across-the-board reduction affecting all similarly-situated executive employees of the Company;

(iii) the assignment to the Participant of duties or responsibilities which are materially inconsistent with any of the Participant's duties and responsibilities;

(iv) the failure of any purchaser (or an Affiliate thereof) in an Asset Sale by agreement in writing, to expressly, absolutely and unconditionally assume and agree to perform the Plan, in the same manner and to the same extent that the Company would be required to perform the Plan if no such Asset Sale had taken place; or

(v) upon or within twenty-four (24) months following a Change in Control, (A) a reduction in the Participant's Base Salary in effect immediately prior to the Change in Control or (B) a material reduction in the sum of (1) the Participant's Target Bonus for the last completed fiscal year immediately prior to the Change in Control plus (2) the grant date fair value of equity or equity-based awards granted to the Participant under the Stock Plan for the last completed fiscal year immediately prior to the Change in Control;

provided, that any of the events described in clauses (i) – (iii) and (v) above shall constitute Good Reason only if the Participant provides the Company (or applicable employer following a Change in Control) with written objection to the event or condition within 90 days following the occurrence thereof, the Company (or applicable employer following a Change in Control) does not reverse or otherwise cure the event or condition within 30 days of receiving that written objection, and the Participant resigns employment within 30 days following the expiration of that cure period.

(z) "Other Severance Arrangements" means any plans, policies, guidelines, arrangements, agreements, letters and/or other communication, whether formal or informal, written or oral sponsored by the Company or any of its Affiliates and/or entered into by any representative of the Company or any of its Affiliates that might otherwise provide severance benefits upon a Covered Termination.

(aa) "Participant" means an Eligible Employee who is designated as a Participant by the Committee, subject to the requirements of Section 2. For purposes hereof, the Committee shall be permitted to (i) designate groups of Eligible Employees by category, job title or other classification it deems appropriate as Participants without the need to identify any individual Participant by name, provided that the Committee may determine in its sole discretion that any one or more Eligible Employees within a designated group shall not be a Participant in the Plan and (ii) delegate to Company management the authority to determine whether specific individuals qualify as Participants within the parameters set forth by the Committee.

(bb) "Person" means any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act).

(cc) "Release Agreement" means a release and/or waiver of claims in the form customarily provided by the Company Group to terminated employees, pursuant to which a Participant may be required to (i) acknowledge the receipt of the severance payment and other benefits, and (ii) release the Company and its Affiliates (including the Employer and its Affiliates) and other Persons designated by the Company from any and all claims and liabilities, whether known or unknown, or suspected or unsuspected, from the beginning of time until Participant's execution of the Release Agreement, including without limitation, those arising from his or her employment or termination thereof (other than with respect to the Participant's rights under the Plan).

(dd) "Severance Pay" means the Cash Severance Amount set forth on Appendix B for each Participant, payable in substantially equal installments in accordance with the Company's payroll practices as in effect from time to time over the applicable number of months set forth on Appendix B.

(ee) "Severance Period" means the number of months set forth on Appendix B indicating the time the Cash Severance Amount will be paid to each Participant for a Covered Termination.

(ff) "Stock Plan" means the OptimizeRx Corporation 2021 Equity Incentive Plan, as amended from time to time (or any successor plan thereto adopted by the Company for the purpose of providing equity and other incentive compensation to the employees and other service providers of the Company or its Affiliates).

(gg) "Subsidized COBRA Period" means, with respect to any Participant, the period set forth on Appendix B, as attached hereto, as applicable.

(hh) "Target Bonus" means the Participant's target annual bonus under the Annual Bonus Program.

Appendix B
Severance Payments on Covered Termination

Participant	Subsidized COBRA Period	Cash Severance Amount
Edward Stelmakh	From the date of the Covered Termination until the earliest of (x) 12 months thereafter, (y) the date the Participant becomes eligible for coverage under a subsequent employer's health plan, or (z) the date the Participant and/or the Participant's beneficiary(ies) cease to be eligible under COBRA.	1.0 times the Participant's Base Salary, paid in installments over 12 months
Stephen L. Silvestro	From the date of the Covered Termination until the earliest of (x) 12 months thereafter, (y) the date the Participant becomes eligible for coverage under a subsequent employer's health plan, or (z) the date the Participant and/or the Participant's beneficiary(ies) cease to be eligible under COBRA.	1.0 times the Participant's Base Salary, paid in installments over 12 months
Marion Odence-Ford	From the date of the Covered Termination until the earliest of (x) 12 months thereafter, (y) the date the Participant becomes eligible for coverage under a subsequent employer's health plan, or (z) the date the Participant and/or the Participant's beneficiary(ies) cease to be eligible under COBRA.	1.0 times the Participant's Base Salary, paid in installments over 12 months
Todd Inman	From the date of the Covered Termination until the earliest of (x) 6 months thereafter, (y) the date the Participant becomes eligible for coverage under a subsequent employer's health plan, or (z) the date the Participant and/or the Participant's beneficiary(ies) cease to be eligible under COBRA.	0.5 times the Participant's Base Salary, paid in installments over 6 months
Douglas Besch	From the date of the Covered Termination until the earliest of (x) 6 months thereafter, (y) the date the Participant becomes eligible for coverage under a subsequent employer's health plan, or (z) the date the Participant and/or the Participant's beneficiary(ies) cease to be eligible under COBRA.	0.5 times the Participant's Base Salary, paid in installments over 6 months
Andy D'Silva	From the date of the Covered Termination until the earliest of (x) 6 months thereafter, (y) the date the Participant becomes eligible for coverage under a subsequent employer's health plan, or (z) the date the Participant and/or the Participant's beneficiary(ies) cease to be eligible under COBRA.	0.5 times the Participant's Base Salary, paid in installments over 6 months

Appendix C
Payments on Change in Control Covered Termination

Participant	CIC Covered Termination Payment Amount
Edward Stelmakh	2.0 times the Participant's Base Salary
Stephen L. Silvestro	2.0 times the Participant's Base Salary
Marion Odence-Ford	2.0 times the Participant's Base Salary
Todd Inman	1.0 times the Participant's Base Salary
Douglas Besch	1.0 times the Participant's Base Salary
Andy D'Silva	1.0 times the Participant's Base Salary

Exhibit A

OPTIMIZERX CORPORATION

BUSINESS PROTECTION AGREEMENT

In consideration of my employment with OptimizeRx Corporation, a Nevada corporation with its principal place of business in Rochester, Michigan, (the "Company"), and in recognition that (i) as an employee of the Company I will have access to Confidential Information (defined in Section 9 below), customers and corporate opportunities of Company, and (ii) if I become employed or affiliated with a Competing Organization (defined in Section 9 below), Company will be at risk, I agree with Company as follows:

1. Confidential Information.

a. No Unauthorized Disclosure or Use. While employed by Company and thereafter, I shall not, directly or indirectly, use or disclose to anyone outside of Company any Confidential Information other than pursuant to my employment by and for the benefit of Company.

b. Ownership of Confidential Information. I agree that all originals and all copies of manuscripts, letters, notes, notebooks, reports, models, computer files and other materials containing, representing, evidencing, recording, or constituting any Confidential Information (created by myself or others) shall be the sole property of Company or the property of third parties who lawfully disclosed the Confidential Information under obligations of confidentiality.

c. Third Party Confidential Information. I understand that Company from time to time has in its possession information which is claimed by others to be proprietary or confidential and which Company has agreed or is under an obligation to keep confidential. I agree that all such information shall be Confidential Information for purposes of this Agreement.

2. Developments.

a. Ownership. I agree that all Developments (defined in Section 9 below) created during the period of my employment with Company (whether or not made on Company's premises, during work hours or disclosed by me to Company), together with all products or services which embody these Developments, shall be the sole property of Company.

b. Assignment and Cooperation. I agree, for all Developments created during the period of my employment with Company or during the six month period following termination of my employment with Company, (i) to make and maintain adequate and current written records of all Developments, and to disclose all Developments promptly, fully and in writing to Company immediately upon development of the same and at any time upon request, (ii) that I hereby assign and will assign to Company all my right, title and interest in and to all Developments and to anything tangible which evidences, incorporates, constitutes, represents or records any Developments, (iii) to cooperate and assist Company in obtaining and maintaining any governmental protection it may seek for Developments, and to execute all documents that may be required therefor, and (iv) if any Developments constitute works made for hire under the laws of the United States, they shall be exclusive property of the Company, and should any Developments be held by a court of competent jurisdiction not to be a 'work made for hire', I hereby and will assign to Company all copyrights, patents and other proprietary rights I may have in any Developments, together with rights to file for and own wholly without restriction United States and foreign copyrights, patents, and trademarks with respect thereto. In the event the Company is unable to secure my signature on any application for patent, copyright or other analogous protection relating to any Development, whether because of my physical or mental incapacity or for any other reason whatsoever, I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney-in-fact (which designation and appointment shall be (i) deemed coupled with an interest and (ii) irrevocable, and shall survive my death or incapacity), to act for and in my behalf and stead to execute and file any application and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other analogous protections with the same legal force and effect as if executed by me.

c. Prior Developments. I agree that the foregoing assignment covers all results, outputs and products of my work for Company prior to the date hereof (whether as an employee or as a consultant), and that all related copyrights, patents and other intellectual property rights, and that all such results, output and products are Developments and the sole property of Company.

3. Exceptions to this Agreement. I understand that Company does not desire to acquire from me any trade secrets or confidential business information that I may have acquired from others. I have informed Company, in the space below, of any (i) continuing obligations that I may have to any previous employers which require me not to disclose information to Company or compete with any such previous employers; and (ii) confidential information or developments which I claim as my own or otherwise intend to exclude from this Agreement because it was developed by me prior to the date of this Agreement. I understand that after execution of this Agreement I shall have no right to exclude confidential information or developments from this Agreement.

(If there are none, please enter the word "None"; attach additional pages as necessary)

Note: For obligations not to disclose information to Company or compete with any such previous employers, give the date of each obligation, identify the parties owed each obligation and the nature of any restriction. Please attach any such agreement(s) to this Agreement.

4. Employee's Obligation to Cooperate. At any time upon the request of Company, I shall execute all documents and perform all acts which Company considers necessary or advisable to secure its rights hereunder and to carry out the intent of this Agreement.

5. Return of Property. At any time upon the request of Company, and in any event upon cessation of employment, I shall return promptly to Company all Company property, including all Confidential Information and Developments and any copies thereof.

6. Employment At-Will. Nothing in this Agreement shall require that Company employ me for any period of time. I understand that I am an employee-at-will and that my employment relationship with Company may be terminated by Company or me at any time for any reason, with or without prior notice. I further understand that the employment-at-will relationship between me and Company cannot be modified by oral or written statements from supervisors, managers or others at Company; the at-will nature of my employment with Company can only be modified by a written agreement signed by the CEO of Company.

7. Restrictive Covenants.

a. I acknowledge and agree that Company has invested substantial time, money and resources in the development of its Confidential Information and the development and retention of its customers, clients, collaborators, and employees. I further acknowledge that during the course of my employment, I may be introduced to customers, clients, and collaborators of Company, and agree that any "goodwill" associated with any customer, client, or collaborator belongs exclusively to Company. In recognition of the foregoing, I specifically acknowledge and agree that while I am employed by Company and for a period of one (1) year after termination of such employment (for any reason, whether voluntary or involuntary) I will not directly or indirectly in any position or capacity engage in the following activities for myself or for any other person, business, corporation, partnership or other entity:

(i) call upon, solicit, divert, or accept, or attempt to solicit or divert any of Company's business or prospective business from any of Company's customers, clients, or collaborators, or prospective customers, clients, or collaborators with whom I had contact or whose dealings with Company I coordinated or supervised or about whom I obtained Confidential Information, unless I obtain prior written consent of Company;

(ii) refer, request, solicit, induce, hire (or attempt or assist in doing any of these actions) any employee or other persons (including consultants) who may have performed work or services for Company within one (1) year prior to the termination of my employment with Company to perform work or services for any person or entity other than Company; or

(iii) become employed by, associated with or render services to any Competing Organization in connection with any Competing Product anywhere in the world where Company does business or is planning to do business. I understand and agree that this covenant not to compete is reasonable in that I can continue my chosen profession when I leave the employment of Company so long as I do not work for companies that are Competing Organizations in connection with Competing Products and so long as I do not disclose confidential, proprietary and trade secret information of Company. I understand and agree that it does not impose an unnecessary restraint because of the nature of the confidential, proprietary and trade secret information of Company related to the Competing Products which mandates protection in the geographical areas described above. I also understand and agree that the covenant is necessary to protect the goodwill and confidential, proprietary and trade secret information of Company.

I ACKNOWLEDGE THAT THESE RESTRICTIONS SHALL APPLY AND BE BINDING REGARDLESS OF CHANGES IN MY POSITION, DUTIES, GEOGRAPHIC LOCATION, RESPONSIBILITIES OR COMPENSATION DURING MY EMPLOYMENT.

b. Confirmation of Post-Employment Status. I agree to inform Company, for a period of one year following the termination of my employment, of every place of employment and every affiliation I have in a company or business enterprise, directly or indirectly, as an employee, owner, manager, stockholder, consultant, director, officer, or partner. If I fail to so inform Company, and I have violated the obligations set forth in this Section 7, the one-year period shall run from the date that Company first learned of my activity.

c. Small Ownership Exemption. The provisions of this Section 7 shall not apply to ownership of less than one percent (1%) of the stock of any publicly traded corporation.

8. Corporate Compliance. I agree that I will abide by all policies and procedures that Company may have in effect from time to time, including without limitation, the Code of Conduct, Acceptable Use Policy, or any other corporate compliance programs or polices. I further acknowledge that failure to abide by policies and procedures may result in discipline, including immediate termination of my employment. Nothing herein limits my at-will employment with Company, pursuant to paragraph six (6) above.

9. Definitions. The following terms, as used in this Agreement, shall have the meanings set forth below:

a. “Competing Organization” shall mean persons, organizations, or any other entity, including myself, engaged in, or considering to become engaged in, research or development, production, distribution, marketing, providing or selling of a Competing Product.

b. “Competing Product” shall mean products, processes, or services of any person, organization, or entity other than Company, in existence or under development, which are substantially similar, may be substituted for, or applied to substantially similar end use of the products, processes or services with which I worked on in any capacity, including a sales or marketing capacity, at any time during my employment with Company or about which I acquired Confidential Information through my work with Company.

c. “Confidential Information” shall mean all trade secrets, proprietary information, and other data or information (and any tangible evidence, record or representation thereof), whether prepared, conceived or developed by an employee of Company (including myself) or received by Company from an outside source, which is in the possession of Company (whether or not the property of Company) and which is maintained in confidence by Company, including, but not limited to: (i) technical and business information; (ii) information relating to the design, manufacture, application, know-how, research and development of Company’s products and services including Developments; (iii) sources of supply and material; (iv) operating and other cost data; (v) information relating to present, past or prospective customers, customer relationships, customer proposals, price lists and data relating to pricing of products or services; (vi) patient medical records and all other information relating to patients; and (vii) any other information not generally known in the industry, including specifically, all information contained in manuals, memoranda, formulae, plans, drawings and designs, specifications, supply sources, and records of Company whether or nor legended or otherwise identified by Company as “Confidential Information.” Notwithstanding the foregoing, the term Confidential Information shall not apply to information which senior management of Company has voluntarily disclosed to the public without restriction or which has otherwise lawfully entered the public domain.

d. “Developments” shall mean all Confidential Information and all other discoveries, inventions, ideas, concepts, research and other information, processes, products, methods and improvements, or parts thereof (including, without limitation, all computer programs, algorithms, subroutines, source codes, object codes, designs, and improvements), conceived, developed, or otherwise made by me, alone or jointly with others and in any way relating to the Corporation's present or proposed services, programs or products or to tasks assigned to me during the course of my employment, whether or not patentable or subject to copyright protection and whether or not reduced to tangible form or reduced to practice.

e. “Company” includes OptimizeRx and all other companies or entities currently or which in the future are related or affiliated with OptimizeRx.

10. Miscellaneous Provisions.

a. Entire Agreement and Amendment. This Agreement contains the entire and only agreement between Company and me respecting the subject matter hereof, and it supersedes all prior agreements and representations with regard to the subject matter hereof; provided however, to the extent I have a prior written agreement with Company regarding confidentiality, noncompetition, nonsolicitation, and/or developments, that agreement shall remain in full force and effect, as applicable. In the event of any inconsistency between this Agreement and any other contract between Company and me, the provisions of this Agreement shall prevail (unless such other contract expressly supersedes this Agreement). No modification of this Agreement shall be binding upon me or Company unless made in writing and signed by an authorized officer of Company.

b. Survival and Waivers. This Agreement will remain in effect if I am transferred, promoted, or reassigned to work on functions other than my present functions anywhere within Company. My obligations under this Agreement shall survive the termination of my employment with Company regardless of the manner of or reasons for such termination, and regardless of whether such termination constitutes a breach of any other agreement I may have with Company. This Agreement shall inure to the benefit of, and be binding upon, Company and me and our respective heirs, legal representatives, successors and assigns. This Agreement may be assigned by Company for no additional consideration and without my consent to any successor entity in the event of a merger, acquisition, change of control, or sale of all or a part of the business or assets of Company. I acknowledge that the term "Company," as used in this Agreement, shall also mean any such successor entity as the context requires. Failure by Company to insist upon strict compliance with any term of this Agreement shall not be deemed a waiver of that or any other right.

c. Interpretation. In the event that any provision of this Agreement shall be determined to be unenforceable by any court of competent jurisdiction by reason of its extending for too great a period of time or over too large a geographic area or over too great a range of activities, it shall be interpreted to extend only over the maximum period of time, geographic area or range of activities as to which it may be enforceable. If after application of the immediately preceding sentence, any provision of this Agreement shall be determined to be invalid, illegal or otherwise unenforceable by any court of competent jurisdiction, the validity, legality and enforceability of the other provisions of this Agreement shall not be affected. Except as otherwise provided in this paragraph, any invalid, illegal or unenforceable provision of this Agreement shall be severable and all other provisions hereof shall remain in full force and effect.

d. Equitable Relief. I acknowledge and agree that (i) the provisions set forth in this Agreement are necessary and reasonable to protect Company's Confidential Information and goodwill; (ii) the specific time, geography and scope provisions set forth in Section 7 are reasonable and necessary to protect Company's business interests; and (iii) in the event of my breach of any of the agreements set forth in this Agreement, Company would suffer substantial irreparable harm and that Company would not have an adequate remedy at law for such breach. In recognition of the foregoing, I agree that in the event of a breach or threatened breach of any of these covenants, in addition to such other remedies as Company may have at law, without posting any bond or security, Company shall be entitled to seek and obtain equitable relief, in the form of specific performance, or temporary, preliminary or permanent injunctive relief, or any other equitable remedy which then may be available.

e. Governing Law and Jurisdiction. This Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of the state of Michigan without regard to its principles of conflicts of laws, and shall be deemed to be effective as of the first day of my employment by Company. I further agree that I shall be subject to the jurisdiction of the courts of the state of Michigan in any action brought by Company in connection with any of the provisions of this Agreement. Both parties further acknowledge that venue shall lie in Michigan, unless another venue is designated by Company, and that material witnesses and documents are located in Michigan. Both parties further agree that any action, demand, claim or counterclaim relating to this Agreement shall be resolved by a judge alone, and both parties hereby waive and forever renounce the right to a trial before a civil jury.

BY PLACING MY SIGNATURE HEREUNDER, I ACKNOWLEDGE THAT I HAVE HAD ADEQUATE OPPORTUNITY TO REVIEW THESE TERMS AND CONDITIONS AND TO REFLECT UPON AND CONSIDER THE TERMS AND CONDITIONS OF THIS AGREEMENT. I FURTHER ACKNOWLEDGE THAT I FULLY UNDERSTAND ITS TERMS AND THAT I VOLUNTARILY EXECUTED THIS AGREEMENT.

EMPLOYEE:

Date: _____

By: _____
Print Name: _____

ACCEPTED:

OPTIMIZERx CORPORATION

Date: _____

By: _____
Name: _____
Its: _____

Exhibit 10.19

March 8, 2023

Mr. William Febbo

Re: Fourth Addendum to the Offer Letter, dated February 25, 2019, as amended, by and between William Febbo and OptimizeRx Corporation

Dear Will,

On behalf of OptimizeRx Corporation (the "Company"), we are delighted to provide you with this letter agreement (this "Fourth Addendum"), effective as of March 8, 2023 (the "Effective Date"), which will update and amend the letter agreement dated February 25, 2019, as amended on March 10, 2020, September 24, 2020 and September 22, 2021 (as amended, the "Offer Letter), by and between the Company and William Febbo (the "Executive").

Change in Control Termination

If the Executive's employment is terminated (i) by the Company without Cause, or (ii) by the Executive following an event constituting Good Reason (provided that the Executive has given written notice to the Company of such event within forty-five (45) days of its occurrence and the Company has failed to cure such event within thirty (30) days following receipt of such notice), either (A) within the three (3) month period prior to a Change in Control and it is reasonably demonstrated by the Executive that such termination (x) was at the request of a third party who has taken steps reasonably calculated or intended to effect the Change in Control (and such transaction is actually consummated) or (y) otherwise arose in connection with or in anticipation of a Change in Control (and such transaction is actually consummated), or (B) within twenty-four (24) months following a Change in Control (all such terminations, a "CIC-Related Termination"), then the Company shall pay the Executive a lump-sum cash payment in an amount equal to 4.0 times the Executive's then current annual Base Salary ("CIC Severance"), payable within 60 days following the later of (Y) the date of the Executive's termination or (Z) the closing date of the applicable Change in Control. The payment of any amount pursuant hereto shall be conditioned upon the Executive's execution, delivery to the Company, and non-revocation of a Release Agreement (and the expiration of any revocation period contained in such Release Agreement).

The CIC Severance would be provided in addition to any Change in Control Benefits for which the Executive may be eligible pursuant to the Offer Letter. If the Executive experiences a CIC-Related Termination, the CIC Severance would be provided in lieu of any severance benefits for which you may be eligible pursuant to the Offer Letter.

Definitions

Capitalized terms used in this Addendum and not otherwise defined herein shall have the meanings ascribed to such terms in the Offer Letter.

"Release Agreement" means a release and/or waiver of claims in the form customarily provided by the Company to terminated employees, pursuant to which the Executive may be required to (i) acknowledge the receipt of the severance payment, and (ii) release the Company and its affiliates and other persons designated by the Company from any and all claims and liabilities, whether known or unknown, or suspected or unsuspected, from the beginning of time until Executive's execution of the Release Agreement, including without limitation, those arising from his employment or termination thereof (other than with respect to the Executive's severance or change in control rights under the Offer Letter, as amended from time to time).

Except as otherwise expressly set forth herein, all other terms of the Offer Letter shall remain in full force and effect.

If you have any questions, please do not hesitate to call me to discuss. If this Fourth Addendum is acceptable, please sign and date below and return one copy of this Fourth Addendum to the Company.

OPTIMIZERX CORPORATION

/s/ Marion Odence-Ford
Marion Odence-Ford
General Counsel & Chief Compliance Officer

Acknowledged and agreed:

/s/ William J. Febbo
William J. Febbo

March 8, 2023
Date

Exhibit 21.1

List of Subsidiaries

OptimizeRx Corporation, A Michigan corporation

CareSpeak Communications, Inc., a New Jersey corporation

CareSpeak Communications D.O.O., a controlled foreign corporation located in Croatia.

Cyberdiet, a controlled foreign corporation located in Israel

Exhibit 23.1

UHY LLP
Certified Public Accountants

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the following registration statements on Form S-3 (File No. 333-252844) and Forms S-8 (File Nos. 333-259218; 333-23760; 333-230212, 333-210653 and 333-189439) of OptimizeRx Corporation and Subsidiaries (the "Company") of our report dated March 10, 2023, with respect to the consolidated financial statements of the Company as of December 31, 2022 and 2021 and for the years then ended, which is included in this Annual Report on Form 10-K of the Company.

/s/ UHY LLP

Sterling Heights, Michigan
March 10, 2023

Exhibit 31.1

CERTIFICATIONS

I, William J. Febbo, certify that;

1. I have reviewed this annual report on Form 10-K for the year ended December 31, 2022 of OptimizeRx Corp (the "registrant");

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: March 10, 2023

/s/ William J. Febbo

By: William J. Febbo
Title: Chief Executive Officer, Principal Executive Officer

Exhibit 31.2

CERTIFICATIONS

I, Edward Stelmakh, certify that;

1. I have reviewed this annual report on Form 10-K for the year ended December 31, 2022 of OptimizeRx Corp (the "registrant");

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: March 10, 2023

/s/ Edward Stelmakh

By: Edward Stelmakh
Title: Chief Financial Officer, Principal Financial Officer and Principal Accounting Officer

Exhibit 32.1

CERTIFICATION OF CHIEF 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

In connection with the annual Report of OptimizeRx Corp (the "Company") on Form 10-K for the year ended December 31, 2022 filed with the Securities and Exchange Commission (the "Report"), I, William J. Febbo, Chief Executive Officer of the Company, and I, Edward Stelmakh, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the consolidated financial condition of the Company as of the dates presented and the consolidated result of operations of the Company for the periods presented.

By: /s/ William J. Febbo
Name: William J. Febbo
Title: Chief Executive Officer, Principal Executive Officer
Date: March 10, 2023

By: /s/ Edward Stelmakh
Name: Edward Stelmakh
Title: Chief Financial Officer, Principal Financial Officer and Principal Accounting Officer
Date: March 10, 2023

This certification has been furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.