

Opko Health, Inc.
Form S-3ASR
January 29, 2019
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As filed with the Securities and Exchange Commission on January 28, 2019

Registration No. 333-

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

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

OPKO Health, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

75-2402409
(IRS Employer
Identification Number)

4400 Biscayne Blvd.

Miami, FL 33137

(305) 575-4100

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Kate Inman, Esq.

General Counsel and Secretary

OPKO Health, Inc.

4400 Biscayne Blvd.

Miami, Florida 33137

(305) 575-4100

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Adam Logal

Chief Financial Officer

OPKO Health, Inc.

4400 Biscayne Blvd.

Miami, Florida 33137

(305) 575-4100

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333 Avenue of the Americas, Suite 4400

Miami, Florida 33131

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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of each class of	Amount	Proposed	Proposed	Amount of
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securities to be registered	to be registered(1)	maximum offering price per unit(1)	maximum aggregate offering price(1)	registration fee(1)
Common Stock, par value \$0.01 per share				
Preferred Stock, par value \$0.01 per share				
Debt Securities				
Depository Shares				
Warrants				
Purchase Contracts				
Units				
Total				

(1) An indeterminate aggregate offering price and number or amount of the securities of each identified class is being registered as may from time to time be sold at indeterminate prices, either by the issuer or by selling security holders. Separate consideration may or may not be received for securities that are issuable upon conversion of, or in exchange for, or upon exercise of, convertible or exchangeable securities. In accordance with Rules 456(b) and 457(r) under the Securities Act of 1933, as amended, or the Securities Act, the registrant is deferring payment of all of the registration fee.

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PROSPECTUS

Common Stock

Preferred Stock

Debt Securities

Depositary Shares

Warrants

Purchase Contracts

Units

We or any selling stockholder may offer and sell from time to time, in one or more series or issuances and on terms that we will determine at the time of the offering, any combination of the securities described in this prospectus.

This prospectus provides you with a general description of the securities we or any selling stockholder may offer and sell. We will provide specific terms of any offering in a supplement to this prospectus. Any prospectus supplement may also add, update, or change information contained in this prospectus. You should carefully read this prospectus and the applicable prospectus supplement as well as the documents incorporated or deemed to be incorporated by reference in this prospectus before you invest in any of our securities.

We or any selling stockholder may offer and sell in the same offering or in separate offerings; to or through underwriters, dealers and agents; or directly to purchasers. The names of any underwriters, dealers, or agents involved in the sale of our securities and any applicable fees, commissions, or discounts will be described in the applicable prospectus supplement. Our net proceeds from the sale of securities will also be set forth in the applicable prospectus supplement. We will not receive any proceeds from the sale of securities by selling stockholders.

This prospectus may not be used to consummate a sale of our securities unless accompanied by the applicable prospectus supplement.

Our common stock is listed on the Nasdaq Global Select Market of The Nasdaq Stock Market LLC under the symbol OPK.

Investing in our securities involves a high degree of risk. See the Risk Factors section beginning on page 1 of this prospectus for a discussion of information that should be considered in connection with an investment in our securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation

to the contrary is a criminal offense.

The date of this prospectus is January 28, 2019.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this shelf registration process, we and/or selling stockholders may sell, from time to time, any combination of the securities described in this prospectus in one or more offerings. This prospectus provides you with general information regarding the securities we and/or selling stockholders may offer. We will provide a prospectus supplement that contains specific information about any offering by us and/or selling stockholders.

The prospectus supplement also may add, update, or change information contained in the prospectus. You should read both this prospectus and the prospectus supplement related to any offering as well as additional information described under the headings **Where You Can Find More Information** and **Incorporation of Certain Information by Reference**.

Neither we nor any selling stockholder has authorized anyone to provide you with information different from that contained or incorporated by reference in this prospectus or any accompanying prospectus supplement or any free writing prospectus. We and/or selling stockholders are offering to sell, and seeking offers to buy, securities only in jurisdictions where offers and sales are permitted. The information contained in this prospectus and in any accompanying prospectus supplement is accurate only as of the dates of their covers, regardless of the time of delivery of this prospectus or any prospectus supplement or of any sale of our securities. Our business, financial condition, results of operations, and prospects may have changed since those dates. You should rely only on the information contained or incorporated by reference in this prospectus or any accompanying prospectus supplement. To the extent there is a conflict between the information contained in this prospectus and the prospectus supplement, you should rely on the information in the prospectus supplement, provided that if any statement in one of these documents is inconsistent with a statement in another document having a later date—for example, a document incorporated by reference into this prospectus or any prospectus supplement—the statement in the document having the later date modifies or supersedes the earlier statement.

Unless the context otherwise requires, the terms **OPKO**, **Company**, **we**, **us**, **our**, or **ours** refer to OPKO Health, a Delaware corporation, including its wholly-owned subsidiaries.

RISK FACTORS

Investing in our securities involves a high degree of risk. Before making an investment decision, you should carefully consider the discussion of risks and uncertainties under the heading **Risk Factors** contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2017, which is incorporated by reference in this prospectus, and under similar headings in our subsequently filed Quarterly Reports on Form 10-Q, any Current Reports on Form 8-K that are filed with the SEC and Annual Reports on Form 10-K, as well as the other risks and uncertainties described in any applicable prospectus supplement or free writing prospectus and in the other documents incorporated by reference in this prospectus. See the sections entitled **Where You Can Find More Information** and **Incorporation of Certain Information by Reference** in this prospectus. The risks and uncertainties we discuss in this prospectus, in any applicable prospectus supplement or free writing prospectus and in the other documents incorporated by reference in this prospectus are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently believe are immaterial also may materially and adversely affect our business, financial condition and results of operations. Please also refer to the section of this prospectus titled **Cautionary Statement About Forward Looking Statements**.

CAUTIONARY STATEMENT ABOUT FORWARD-LOOKING STATEMENTS

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This prospectus, any applicable prospectus supplement and the documents and information incorporated by reference herein and therein may contain forward-looking statements within the meaning of Section 27A of the

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Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act.

Forward-looking statements may include, but are not limited to, statements relating to our objectives, plans and strategies as well as statements, other than historical facts, that address activities, events, or developments that we intend, expect, project, believe or anticipate will or may occur in the future. These statements are often characterized by terminology such as may, will, should, expects, plans, anticipates, could, intends, target, project, believes, estimates, predicts, potential, or continue or the negative of these terms or other similar expressions.

Forward-looking statements are based on assumptions and assessments made in light of our experience and perception of historical trends, current conditions, expected future developments and other factors believed to be appropriate. Forward-looking statements are not guarantees of future performance and are subject to risks and uncertainties, many of which are outside of our control. You should not place undue reliance on these forward-looking statements, which reflect our view only as of the date of this prospectus, and we undertake no obligation to update these forward-looking statements in the future, except as required by applicable law.

A number of important factors could cause actual results to differ materially from those indicated by the forward-looking statements, including, without limitation, those factors described under the heading Risk Factors in our Annual Report on Form 10-K for the fiscal year ended December 31, 2017, which is incorporated by reference in this prospectus, and under similar headings in our subsequently filed Quarterly Reports on Form 10-Q, any Current Reports on Form 8-K that are filed with the SEC and Annual Reports on Form 10-K, as well as the other risks and uncertainties described in any applicable prospectus supplement or free writing prospectus and in the other documents incorporated by reference in this prospectus. Some of the key factors that could cause actual results to differ from our expectations include the following:

we have a history of losses and may not generate sustained positive cash flow sufficient to fund our operations and research and development programs;

our need for, and ability to obtain, additional financing when needed on favorable terms, or at all;

adverse results in material litigation matters or governmental inquiries, including, without limitation, recent lawsuits against us and our Chairman of the Board and Chief Executive Officer by the SEC, as well as related class action and derivative lawsuits;

the risks inherent in developing, obtaining regulatory approvals for and commercializing new, commercially viable and competitive products and treatments;

our research and development activities may not result in commercially viable products;

that earlier clinical results of effectiveness and safety may not be reproducible or indicative of future results;

the success of our relationship with Pfizer;

that we may fail to obtain regulatory approval for hGH-CTP or successfully commercialize *Rayaldee* and hGH-CTP;

that we may not generate profits or cash flow from our laboratory operations or substantial revenue from *Rayaldee* and our pharmaceutical and diagnostic products;

that currently available over-the-counter and prescription products, as well as products under development by others, may prove to be as or more effective than our products for the indications being studied;

our ability to build a successful pharmaceutical sales and marketing infrastructure;

our ability and our distribution and marketing partners' ability to comply with regulatory requirements regarding the sales, marketing and manufacturing of our products and product candidates and the operation of our laboratories;

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the performance of our third-party distribution partners, licensees and manufacturers over which we have limited control;

our success is dependent on the involvement and continued efforts of our Chairman and Chief Executive Officer;

integration challenges for Transition Therapeutics, Inc., BioReference Laboratories, EirGen and other acquired businesses;

availability of insurance coverage with respect to material litigation matters;

changes in regulation and policies in the United States (U.S.) and other countries, including increasing downward pressure on healthcare reimbursement;

our ability to manage our growth and our expanded operations;

increased competition, including price competition;

changing relationships with payors, including the various state and multi-state Blues programs, suppliers and strategic partners;

efforts by third-party payors to reduce utilization and reimbursement for clinical testing services;

our ability to maintain reimbursement coverage for our products and services, including the 4Kscore test;

failure to timely or accurately bill and collect for our services;

failure in our information technology systems, including cybersecurity attacks or other data security or privacy incidents;

failure to obtain and retain new clients and business partners, or a reduction in tests ordered or specimens submitted by existing clients;

failure to establish, and perform to, appropriate quality standards to assure that the highest level of quality is observed in the performance of our testing services;

failure to maintain the security of patient-related information;

our ability to obtain and maintain intellectual property protection for our products;

our ability to defend our intellectual property rights with respect to our products;

our ability to operate our business without infringing the intellectual property rights of others;

our ability to attract and retain key scientific and management personnel;

failure to obtain and maintain regulatory approval outside the U.S.;

legal, economic, political, regulatory, currency exchange, and other risks associated with international operations; and

our ability to finance and successfully complete construction of a research, development and manufacturing center in Waterford, Ireland.

OUR COMPANY

We are a diversified healthcare company that seeks to establish industry-leading positions in large and rapidly growing medical markets. Our diagnostics business includes BioReference Laboratories, the nation's third-largest clinical laboratory with a core genetic testing business and an almost 400-person sales and marketing team to drive growth and leverage new products, including the 4Kscore prostate cancer test and the Claros 1 in-

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office immunoassay platform (in development). Our pharmaceutical business features Rayaldee, a U.S. Food and Drug Administration (FDA)-approved treatment for secondary hyperparathyroidism in adults with stage 3 or 4 chronic kidney disease and vitamin D insufficiency (launched in November 2016), OPK88004, a selective androgen receptor modulator currently being studied for benign prostatic hyperplasia but for which we are exploring other potential indications, and OPK88003, a once or twice weekly oxyntomodulin for type 2 diabetes and obesity which is a clinically advanced drug candidate among the new class of GLP-1 glucagon receptor dual agonists (phase 2b). Our pharmaceutical business also features hGH-CTP, a once-weekly human growth hormone injection (in phase 3 and partnered with Pfizer Inc. (Pfizer)).

We operate established pharmaceutical platforms in Spain, Ireland, Chile and Mexico, which are generating revenue and from which we expect to generate positive cash flow and facilitate future market entry for our products currently in development. We have a development and commercial supply pharmaceutical company, as well as a global supply chain operation and holding company in Ireland, which we expect will play an important role in the development, manufacturing, distribution and approval of a wide variety of drugs with an emphasis on high potency products. We also own a specialty active pharmaceutical ingredients manufacturer in Israel, which we expect will facilitate the development of our pipeline of molecules and compounds for our proprietary molecular diagnostic and therapeutic products.

We are a Delaware corporation. We maintain our principal executive offices at 4400 Biscayne Blvd., Miami, FL 33137. Our telephone number is (305) 575-4100. We maintain a website at www.opko.com. The information contained on our websites or that can be accessed through our website does not constitute part of this prospectus or the accompanying prospectus supplement.

USE OF PROCEEDS

Except as may be otherwise set forth in any prospectus supplement accompanying this prospectus, we will use the net proceeds we receive from sales of securities offered hereby to fund research and development to further develop and commercialize our portfolio of proprietary pharmaceutical and diagnostic products and for working capital, capital expenditures, acquisitions and other general corporate purposes, which may include the repayment or repurchase of indebtedness or debt securities outstanding from time to time. Pending these uses, the net proceeds may also be temporarily invested in cash equivalents or short-term securities. When specific securities are offered, the prospectus supplement relating thereto will set forth our intended use of the net proceeds that we receive from the sale of such securities.

SELLING STOCKHOLDERS

Selling stockholders are persons or entities that, directly or indirectly, have acquired or will from time to time acquire from us, our securities. Such selling stockholders may be parties to registration rights agreements with us, or we otherwise may have agreed or will agree to register their securities for resale. The initial purchasers of our securities, as well as their transferees, pledges, donees or successors, all of whom we refer to as selling stockholders, may from time to time offer and sell our securities pursuant to this prospectus and any applicable prospectus supplement.

The applicable prospectus supplement will set forth the name of each of the selling stockholders and the number of securities beneficially owned by such selling stockholder that are covered by such prospectus supplement. The applicable prospectus supplement will also disclose whether any of the selling stockholders has held any position or office with, has been employed by or otherwise has had a material relationship with us during the three years prior to the date of the applicable prospectus supplement.

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DILUTION

We will set forth in a prospectus supplement the following information regarding any material dilution of the equity interests of investors purchasing securities in an offering under this prospectus:

the net tangible book value per share of our equity securities before and after the offering;

the amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers of the equity interests being offered; and

the amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

DESCRIPTION OF CAPITAL STOCK

General

This section describes the general terms of our capital stock. A prospectus supplement may provide information that is different from this prospectus. If the information in the prospectus supplement with respect to our stock being offered differs from this prospectus, you should rely on the information in the prospectus supplement. A copy of our amended and restated certificate of incorporation, as amended, which we refer to as our Amended and Restated Certificate of Incorporation, and our amended and restated bylaws, which we refer to as our Amended and Restated Bylaws, have been incorporated by reference from our filings with the SEC as an exhibit to the registration statement of which this prospectus forms a part. Our stock and the rights of the holders of our stock are subject to the applicable provisions of the General Corporation Law of the State of Delaware, which we refer to as the DGCL, our Amended and Restated Certificate of Incorporation, our Amended and Restated Bylaws, as well as some of the terms of our outstanding indebtedness.

The description below of our stock and provisions of our Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws are summaries and are qualified by reference to the Amended and Restated Certificate of Incorporation and our Amended and Restated Bylaws, and by the applicable provisions of the DGCL.

Our authorized capital stock consists of 760,000,000 shares of capital stock, of which: (i) 750,000,000 shares are designated as common stock, par value \$0.01 per share; and (ii) 10,000,000 shares are designated as preferred stock, par value \$0.01 per share. As of December 31, 2018, there were 586,331,543 shares of common stock issued and outstanding and no shares of preferred stock issued and outstanding.

Common Stock

Voting Rights

The holders of shares of our common stock are entitled to one vote per share in connection with the election of directors and all other matters submitted to a vote of stockholders. The holders of shares of our common stock do not have cumulative voting rights.

Dividend Rights

Subject to any preferential dividend rights of holders of any then outstanding shares of our preferred stock and our Amended and Restated Certificate of Incorporation, the holders of shares of our common stock shall be entitled to receive, on a pro rata basis, such dividends and other distributions in cash, stock or property when, as and if declared thereon by our board of directors from time to time out of our assets or funds legally available therefor. No dividends have been paid to holders of shares of our common stock since our incorporation, and no dividends are anticipated to be declared or paid in the reasonably foreseeable future.

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Liquidation Rights

After payments to creditors and subject to any preferential liquidation, dissolution or winding up rights of holders of any then outstanding shares of our preferred stock, the holders of shares of our common stock are entitled to share ratably in all of our remaining assets and funds available for distribution to holders of shares of our common stock upon the liquidation, dissolution or winding-up of our affairs.

Other Matters

Holders of shares of our common stock do not have any preemptive, subscription, redemption or conversion rights. All of the shares of our common stock currently issued and outstanding are fully-paid and nonassessable.

Preferred Stock

Under our Amended and Restated Certificate of Incorporation, our board of directors has the authority, without further action by stockholders, to divide shares of our preferred stock into such number of series as our board of directors may determine and to determine and alter, from time to time, the designations, rights, preferences, privileges and restrictions granted to and imposed upon any wholly unissued series of our preferred stock, including dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and the liquidation preference of any wholly unissued series of our preferred stock, any or all of which may be greater than the rights of our common stock, and to establish the number of shares constituting any such series. The issuance of preferred stock with voting rights or conversion rights may adversely affect the voting power of our common stock, including the loss of voting control to others. The issuance of preferred stock may also have the effect of delaying, deferring or preventing a change in control of our company without stockholder approval.

Series A Convertible Preferred Stock

Of the authorized preferred stock, 4,000,000 shares are designated Series A Convertible Preferred Stock . We redeemed all previously issued and outstanding shares of our Series A Convertible Preferred Stock.

Voting Rights

The holders of record of our Series A Convertible Preferred Stock were and would be entitled to notice of, and to vote on or consent to, all actions on which holders of shares of our common stock are required or permitted to act upon. On all matters requiring or permitting a vote or consent of the holders of common stock, each share of Series A Convertible Preferred Stock was and would be equivalent to one share of common stock and all shares of Series A Convertible Preferred Stock were and would be voted together with the shares of common stock as a single class, except as otherwise provided by our Amended and Restated Certificate of Incorporation or our Amended and Restated Bylaws or by law. So long as shares of Series A Convertible Preferred Stock were and would be outstanding, without the approval of the holders of record of at least a majority of the then outstanding shares of Series A Convertible Preferred Stock, voting separately as a class, we were not and would not be permitted to (i) alter or change the rights, preferences, privileges or restrictions of shares of Series A Preferred so as to affect them adversely; or (ii) increase the authorized number of shares of Series A Convertible Preferred Stock.

Dividend Rights

Holders of record of our Series A Convertible Preferred Stock were and would be entitled to receive dividends in the amount of \$0.25 per share, payable annually in arrears. At the option of our board of directors, dividends were and would be payable to the extent lawfully permitted either (i) wholly or partially in cash or (ii) in newly issued shares of Series A Convertible Preferred Stock valued as set forth in our Amended and Restated Certificate of Incorporation.

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Liquidation Rights

In the event of a liquidation, dissolution or winding-up, the holders of record of our Series A Convertible Preferred Stock were and would be entitled to receive ratably in full, out of our lawfully available assets, an amount in cash per outstanding share of Series A Convertible Preferred Stock equal to the sum of \$2.50 and all dividends (whether or not declared) accrued and unpaid thereon as of the date of final distribution to such holders, without interest, before any payment shall be made or any assets distributed to the holders of common stock or any other class or series of our capital stock ranking junior as to liquidation rights to the Series A Convertible Preferred Stock; provided, however, that such rights would accrue to the holders of Series A Convertible Preferred Stock only in the event our payments with respect to the liquidation preferences of any holders of capital stock ranking senior as to liquidation rights to our Series A Convertible Preferred Stock (the Senior Liquidation Stock) are fully met. If, upon any liquidation, dissolution and winding-up, the amount available for such payment to the holders of Series A Convertible Preferred Stock would not be sufficient to pay in full the amounts payable on the Series A Convertible Preferred Stock, the holders of the Series A Convertible Preferred Stock and any other class or series of the our capital stock which may be created having parity as to liquidation rights with the Series A Convertible Preferred Stock would share in the distribution of the amount available in proportion to the respective preferential amounts to which each is entitled.

The liquidation preference of our Series A Convertible Preferred Stock is subject to proportional adjustment as set forth in our Amended and Restated Certificate of Incorporation.

Conversion Rights

Each share of Series A Convertible Preferred Stock was and would be convertible, at the option of the holder of record, into fully paid and nonassessable shares of our common stock. Shares of Series A Convertible Preferred Stock were and would be convertible into the number of shares of our common stock determined by dividing (i) the number of shares of Series A Convertible Preferred Stock (including additional shares) held by a holder by (ii) a divisor equal to \$2.50, subject to certain adjustments set forth in our Amended and Restated Certificate of Incorporation.

Optional Redemption

Shares of Series A Convertible Preferred Stock were and would be redeemable, at our option, in whole or in part, at any time and from time to time, if the average closing bid price of our common stock was at least \$3.75 per share for any 30 consecutive trading days ending within 15 days prior to the date on which we give notice of redemption of shares of Series A Convertible Preferred Stock. The redemption price was and would be \$2.50 per share plus a sum equal to the accrued but unpaid dividends on the Series A Convertible Preferred Stock.

Series C Convertible Preferred Stock

Of the authorized preferred stock, 500,000 shares are designated Series C Convertible Preferred Stock . All previously issued and outstanding shares of Series C Convertible Preferred Stock automatically converted into shares of our common stock, on a one hundred for one basis.

Voting Rights

Except as otherwise expressly provided in our Amended and Restated Certificate of Incorporation or as otherwise required by law, (i) each holder of Series C Convertible Preferred Stock was and would be entitled to vote on all matters submitted to a vote of our stockholders and was and would be entitled to that number of votes equal to the largest number of whole shares of common stock into which such holder s shares of Series C Convertible Preferred

Stock could be converted, at the record date for the determination of stockholders entitled to vote on such matters or, if no such record date is established, at the date such vote is taken or any written consent of stockholders is solicited, and (ii) the holders of shares of preferred stock and common stock would vote together (or tender written consents in lieu of a vote) as a single class on all matters submitted to our stockholders.

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Dividend Rights

The holders of shares of Series C Convertible Preferred Stock were and would be entitled to receive, when, as and if declared by our board of directors, out of our assets legally available therefor, prior and in preference to any declaration or payment of any dividend on our common stock or any other class or series of our capital stock ranking junior to the Series C Convertible Preferred Stock with respect to the payment of dividends, and subject to the rights to dividends of any class or series of our preferred stock ranking senior or on parity with our Series C Convertible Preferred Stock with respect to dividends, cumulative cash dividends at the rate per share as set forth in our Amended and Restated Certificate of Incorporation. Whenever we would declare a dividend on our common stock, the holders of the Series C Convertible Preferred Stock were and would be also entitled to receive dividends in an amount equal per share (on an as-if-converted to common stock basis) to the amount paid or set aside for each share of our common stock.

Liquidation Rights

In the event of any liquidation, dissolution or winding up, or in the event of our insolvency, distributions to our stockholders would be made in the following manner:

(i) First, before any distribution or payment is made to any holders of common stock or any other class or series of capital stock, the holders of Series C Convertible Preferred Stock would be entitled to be paid first out of the assets of the Company available for distribution to holders of capital stock of all classes and series, whether such assets are capital, surplus or earnings (collectively, Available Assets), an amount per share equal to the Series C Preferential Amount (as defined in our Amended and Restated Certificate of Incorporation).

(ii) After payment of the Series C Preferential Amount to all holders of the Series C Convertible Preferred Stock and payment of any other preference amounts to the holders of any other class or series of preferred stock entitled to a liquidation preference, the entire remaining Available Assets, if any, would be distributed among the holders of common stock, Series C Convertible Preferred Stock and any other class or series of preferred stock entitled to participate with the common stock in a liquidating distribution, pro rata in proportion to the shares of common stock then held by them and the shares of common stock which they then have the right to acquire upon conversion of such shares of preferred stock held by them.

Conversion Rights

The Series C Convertible Preferred Stock was and would be subject to conversion into shares of common stock at the option of the holder and upon certain specified events, in each case as set forth in our Amended and Restated Certificate of Incorporation.

8% Series D Cumulative Convertible Preferred Stock

Of the authorized preferred stock, 2,000,000 shares are designated 8% Series D Cumulative Convertible Preferred Stock (Series D Preferred Stock). All previously issued and outstanding shares of our Series D Preferred Stock were converted into shares of our common stock.

Voting Rights

The holders of Series D Preferred Stock had and would have the right to receive notice of any meeting of holders of our common stock or Series D Preferred Stock and to vote (on an as converted into common stock basis) upon any

matter submitted to a vote of the holders of common stock or Series D Preferred Stock. Except as otherwise expressly set forth in our Amended and Restated Certificate of Incorporation, the holders of Series D Preferred Stock would vote on each matter submitted to them with the holders of common stock and all other classes and series of our capital stock entitled to vote on such matter, taken together as a single class.

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Dividend Rights

Holders of shares of the Series D Preferred Stock were and would be entitled to receive, when, as and if declared by our board of directors, out of funds legally available therefor, dividends on each share of Series D Preferred Stock at a rate per annum equal to 8.0% of the sum of (i) \$24.80 as adjusted in accordance with our Amended and Restated Certificate of Incorporation for each stock combination, stock split, recapitalization, or similar corporate action that is the functional equivalent of any of the foregoing, plus (ii) any and all declared and unpaid and accrued dividends thereon. All dividends described in the foregoing sentence were and would be cumulative, whether or not earned or declared, and accrued on an annual basis from the issue date of the Series D Preferred Stock. Whenever we would declare and pay or make a dividend or any other distribution on or with respect to shares of any class of our common stock, holders of shares of the Series D Preferred Stock were and would also be entitled to receive in respect of each share of Series D Preferred Stock, a dividend or distribution in an amount equal to the amount of such dividend or distribution received by a holder of the number of shares of our common stock for which such share of Series D Preferred Stock is convertible on the date of the payment of such dividend or distribution to holders of our common stock.

Rank and Liquidation Rights

With respect to dividend distributions (other than required dividends to the holders of our Series A Convertible Preferred Stock) and distributions upon liquidation, winding up or our dissolution, the Series D Preferred Stock ranked and would rank senior to all classes of our common stock, our Series A Convertible Preferred Stock, our Series C Convertible Preferred Stock and to each other class of our capital stock that is not specifically designated as ranking senior to or *pari passu* with our Series D Preferred Stock.

Conversion Rights

The Series D Preferred Stock was and would be subject to conversion into shares of common stock at the option of the holder and upon certain specified events, in each case as set forth in the certificate of designation with respect to the Series D Preferred Stock.

Certain Amended and Restated Certificate of Incorporation and Bylaws Provisions

Requirements for Advance Notification of Stockholder Nominations and Proposals

Our Amended and Restated Bylaws establish advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or one of its committees or other matters properly brought by a stockholder under Rule 14a-8 promulgated under the Exchange Act.

Special Meetings

Our Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws provide that, except as otherwise required by law, special meetings of the stockholders may only be called by the chairman of the board of directors, the Chief Executive Officer, or by the board of directors acting pursuant to a resolution approved by the affirmative vote of a majority of the whole board. Only those matters set forth in the notice of the special meeting may be considered or acted upon at a special meeting of stockholders.

No Cumulative Voting

Section 214 of the DGCL provides that the certificate of incorporation of any corporation may provide stockholders with the right to cumulate votes in the election of directors. Our Amended and Restated Certificate of Incorporation does not provide for cumulative voting of shares of our stock.

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Delaware Anti-Takeover Law

We are a Delaware corporation subject to Section 203 of the DGCL. Under Section 203, certain business combinations between a Delaware corporation whose stock is listed on a national securities exchange or held of record by more than 2,000 stockholders and an interested stockholder are prohibited for a three-year period following the date that such stockholder became an interested stockholder, unless:

the corporation has elected in its certificate of incorporation not to be governed by Section 203;

the business combination or the transaction which resulted in the stockholder becoming an interested stockholder was approved by the board of directors of the corporation before the date of the business combination or the date such stockholder became an interested stockholder, as applicable;

upon consummation of the transaction that made such stockholder an interested stockholder, the interested stockholder owned at least 85% of the voting stock (as defined in Section 203) of the corporation outstanding at the commencement of the transaction excluding voting stock owned by directors who are also officers or held in employee benefit plans in which the employees do not have a confidential right to tender stock held by the plan in a tender or exchange offer; or

the business combination is approved by the board of directors and by the stockholders (acting at a meeting and not by written consent) by the affirmative vote of at least 66-2/3% of the outstanding voting stock which is not owned (as defined in Section 203) by the interested stockholder.

The three-year prohibition also does not apply to some business combinations proposed by an interested stockholder following the announcement or notification of an extraordinary transaction involving the corporation and a person who had not been an interested stockholder during the previous three years or who became an interested stockholder with the approval of a majority of the corporation's directors. The term business combination is defined generally to include mergers or consolidations between a Delaware corporation and an interested stockholder, transactions with an interested stockholder involving the assets or stock of the corporation or its majority-owned subsidiaries and transactions which increase an interested stockholder's percentage ownership of stock, or other transaction resulting in a financial benefit to the interested stockholder. The term interested stockholder is defined generally as those stockholders who become beneficial owners of 15% or more of a Delaware corporation's voting stock, together with the affiliates or associates of that stockholder.

Listing

Our common stock is listed on the NASDAQ Global Select Market under the trading symbol OPK.

Transfer Agent and Registrar

The Transfer Agent and Registrar for our common stock is American Stock Transfer & Trust Company. The registrar and transfer agent for our preferred stock will be set forth in the applicable prospectus supplement.

DESCRIPTION OF DEBT SECURITIES

This prospectus describes certain general terms and provisions of the debt securities that we may offer under this prospectus and one or more prospectus supplements. When we offer to sell a particular series of debt securities, we will describe the specific terms of the series in a prospectus supplement. The following description of debt securities will apply to the debt securities offered by this prospectus unless we provide otherwise in the applicable prospectus supplement. The applicable prospectus supplement for a particular series of debt securities may specify different or additional terms.

We may issue senior, senior subordinated, or subordinated debt securities. Senior securities will be direct obligations of ours and will rank equally and ratably in right of payment with other indebtedness of ours

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that is not subordinated. Senior subordinated securities will be subordinated in right of payment to the prior payment in full of senior indebtedness, as defined in the applicable prospectus supplement, and may rank equally and ratably with any other senior subordinated indebtedness. Subordinated securities will be subordinated in right of payment to senior subordinated securities.

We need not issue all debt securities of one series at the same time. Unless we provide otherwise, we may reopen a series, without the consent of the holders of such series, for issuances of additional securities of that series.

We will issue the senior debt securities and senior subordinated debt securities under a senior indenture, which we will enter into with a trustee to be named in the senior indenture, and we will issue the subordinated debt securities under a subordinated indenture, which we will enter into with a trustee to be named in the subordinated indenture. We use the term indenture or indentures to refer to both the senior indenture and the subordinated indenture. Each indenture will be subject to and governed by the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act, and we may supplement the indenture from time to time. Any trustee under any indenture may resign or be removed with respect to one or more series of debt securities, and we may appoint a successor trustee to act with respect to that series. We have filed a form of indenture as an exhibit to this registration statement, of which this prospectus forms a part. The terms of the senior indenture and subordinated indenture will be substantially similar, except that the subordinated indenture will include provisions pertaining to the subordination of the subordinated debt securities and senior subordinated debt securities to the senior debt securities and any other of our senior securities. The following statements relating to the debt securities and the indenture are summaries only, are subject to change, and are qualified in their entirety to the detailed provisions of the indenture, any supplemental indenture, and the discussion contained in any prospectus supplements.

General

The debt securities will be our direct obligations. We may issue debt securities from time to time and in one or more series as our board of directors may establish by resolution or as we may establish in one or more supplemental indentures. The particular terms of each series of debt securities will be described in a prospectus supplement relating to the series. We may issue debt securities with terms different from those of debt securities that we previously issued.

We may issue debt securities from time to time and in one or more series with the same or various maturities, at par, at a premium, or at a discount. We will set forth in a prospectus supplement, relating to any series of debt securities being offered, the initial offering price, and the following terms of the debt securities:

the title of the debt securities;

the series designation and whether they are senior securities, senior subordinated securities, or subordinated securities;

the aggregate principal amount of the debt securities and any limit on the aggregate amount of the series of debt securities;

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the price or prices (expressed as a percentage of the aggregate principal amount) at which we will issue the debt securities and, if other than the principal amount of the debt securities, the portion of the principal amount of the debt securities payable upon the maturity of the debt securities;

the date or dates on which we will pay the principal on the debt securities;

the rate or rates (which may be fixed or variable) or the method used to determine the rate or rates (including any commodity, commodity index, stock exchange index, or financial index) at which the debt securities will bear interest, the date or dates from which interest will accrue, the date or dates on which interest will commence and be payable, and any regular record date for the interest payable on any interest payment date;

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the place or places where principal, premium, if any, and any interest will be payable or the method of such payment and where the debt securities can be surrendered for transfer, exchange, or conversion;

the terms, if any, by which holders of the debt securities may convert or exchange the debt securities for our common stock, preferred stock, or any other security or property;

if convertible, the initial conversion price, the conversion period, and any other terms governing such conversion;

any subordination provisions or limitations relating to the debt securities;

any sinking fund requirements;

any obligation we have to redeem, purchase or repay the debt securities pursuant to any sinking fund or analogous provisions or at the option of a holder of debt securities and the price or prices at which and the period and periods within which and the terms and conditions upon which debt securities of the series shall be redeemed, purchased, or repaid pursuant to such obligation;

the dates on which and the price or prices at which we will repurchase the debt securities at the option of the holders of debt securities and other detailed terms and provisions of these repurchase obligations;