

## **CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT is dated as of June \_\_, 2011 (the "Effective Date") and is made and entered into by and between Medical Care Corporation, a California corporation ("Disclosing Party"), and Eugen Tarnow ("Receiving Party" and, together with Disclosing Party, the "Parties"), with reference to the following facts:

A. In its March 29, 2005 issue, the Proceedings of the National Academy of Sciences of the United States of America (the "PNAS") published an article (the "Article") entitled "Methods to improve the detection of mild cognitive impairment," which Article was authored by William R. Shankle, A. Kimball Romney, Junko Hara, Dennis Fortier, Malcolm B. Dick, James M. Chen, Timothy Chan and Xijiang Sun (collectively, the "Authors"). In preparing the Article, the Authors were given restricted access to certain proprietary data owned by Disclosing Party. Under the author rules of the PNAS (the "Rules"), publishers of articles in the PNAS are required to make available certain data underlying the articles to researchers for their own use upon request.

B. Receiving Party has made a request to obtain from Disclosing Party access to certain data underlying the Article (the "Requested Information") that is owned by Disclosing Party. Although Disclosing Party did not author the Article and is not subject to the Rules, Disclosing Party is willing to provide the Requested Information Receiving Party, subject to and upon the terms and conditions set forth herein.

As a condition to, and in consideration of, the disclosure of the Requested Information by the Disclosing Party to the Receiving Party, the Parties hereby agree as follows:

1. A. The Requested Information will be used by the Receiving Party solely and exclusively for his own academic research purposes, and Receiving Party will not use the Requested Information for any other purpose. Without limiting the foregoing, the Requested Information will not be used by Receiving Party for commercial, professional, or other for-profit purposes, and Receiving Party will take no actions to commercially exploit all or any part of the Requested Information. The term "Requested Information" includes all data provided by Disclosing Party to Receiving Party pursuant to this Agreement, and Receiving Party acknowledges that all such Requested Information is owned by and is proprietary to Disclosing Party. All Requested Information will be kept strictly confidential by Receiving Party. Disclosure of Requested Information shall not be precluded under this Agreement, if such disclosure is, in the Receiving Party's reasonable opinion upon advice of counsel, in response to a valid subpoena or order of a court or other governmental body or other valid legal process, provided with respect to any such subpoena, order or legal process, the Receiving Party shall first use reasonable efforts to give prompt notice to the Disclosing Party and cooperate with the Disclosing Party so that the Disclosing Party may take legally available steps to resist or narrow such subpoena, order or legal process and obtain an appropriate protective order or other assurance that confidential treatment will be accorded such information.

B. The term “Requested Information” as used in this Agreement shall not include any information which (i) at the time of disclosure is or subsequently becomes generally available to the public (other than as a result of a disclosure directly or indirectly by the Receiving Party), (ii) was or is available to the Receiving Party on a nonconfidential basis from a source that is not bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from transmitting or disclosing the information by a contractual, legal or fiduciary obligation, (iii) has been or is independently developed by a Receiving Party without violation of any obligation under this agreement or use of any Requested Information, or (iv) was already known to the Receiving Party prior to the disclosure.

2. The disclosure of Requested Information does not constitute a warranty by the Disclosing Party as to the accuracy or completeness of such Requested Information.

3. The Receiving Party’s obligations under Section 1.A hereof shall continue in perpetuity with respect to Requested Information of the Disclosing Party

4. Each of the Parties agrees that money damages may not be a sufficient remedy for any breach of this Agreement and that upon a breach the non-breaching Party shall be entitled to equitable relief, including injunction and specific performance, in addition to all other remedies available to such Party at law or in equity. Each Party also hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of California and of the United States of America located in the County of Orange, California for any actions, suits or proceedings arising out of or relating to this agreement (and each Party agrees not to commence any action, suit or proceeding relating thereto except in such courts). Each Party agrees that service of any process, summons, notice or document by U.S. registered mail to the addresses set forth on Exhibit A attached hereto shall be effective service of process for any action, suit or proceeding brought against such Party in any such court. Each Party hereby irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement in the courts of the State of California, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

5. This Agreement is for the benefit of the Parties and their respective successors and assigns. The rights of Disclosing Party under this Agreement may be assigned in whole or in part to any person or entity and such person or entity shall be entitled to enforce this Agreement to the same extent and in the same manner as such Party is entitled to enforce the Agreement. This Agreement and all controversies arising from or relating to performance under this Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts executed and wholly performed within the State of California.

6. If any legal action is brought for the enforcement of the Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys’ fees

and other costs incurred in such legal action, in addition to any other relief to which it may be entitled.

7. Any notice, request or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given (a) when received if personally delivered, (b) within five (5) days after being sent by registered or certified mail, return receipt requested, postage prepaid, (c) within one (1) business day of being sent by priority delivery by established overnight courier, or (d) immediately upon being sent by electronic mail to the parties at their respective addresses set forth on Exhibit A attached hereto.

8. If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, (a) that provision shall be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision and (b) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected.

9. This Agreement constitutes the entire agreement with respect to the Requested Information disclosed hereunder and supersedes all prior or contemporaneous agreements, understanding and representations, written or oral, concerning such Requested Information.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed as of the date first above written.

MEDICAL CARE CORPORATION

By: \_\_\_\_\_  
Dennis Fortier, President

\_\_\_\_\_  
Eugen Tarnow

EXHIBIT A  
ADDRESSES

If to Disclosing Party, to:

Medical Care Corporation  
3900 West Coast Highway  
Suite 310  
Newport Beach, California 92663

If to Receiving Party, to:

Eugen Tarnow  
18-11 Radburn Road  
Fair Lawn, New Jersey 07410