



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
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IN REPLY REFER TO
BUMEDINST 5870.1A
BUMED-M09B7
21 Oct 2020

BUMED INSTRUCTION 5870.1A

From: Chief, Bureau of Medicine and Surgery

Subj: USE OF COPYRIGHTED MATERIALS AND OFFICIAL NAVY IMAGING

Ref: (a) SECNAVINST 5870.9
(b) BUMEDINST 5721.3D
(c) OPNAVINST 3104.1A
(d) DoD Instruction 5040.02 of 27 October 2011

Encl: (1) Format for Requesting Permission for Copyright Use

1. Purpose. To provide policy and procedures for use and reproduction of copyrighted materials, to prescribe procedures for obtaining permission from copyright owners for use as instructional aids by the Bureau of Medicine and Surgery (BUMED) and subordinate activities, and to provide policy for use of official U.S. Navy imaging not subject to copyright protection. This instruction is a complete revision and should be reviewed in its entirety.
2. Cancellation. BUMEDINST 5870.1.
3. Scope and Applicability. This instruction applies to all military and civilian personnel assigned to BUMED and its subordinate activities.
4. Background. Aside from limited fair use, the reproduction and use of copyrighted materials is prohibited by references (a) through (d) unless permission is obtained from the copyright owner. The procedure and format for obtaining permission is outlined in reference (a). BUMED instructional programs rely on the use of copyrighted material, which carries a risk of possible copyright infringement and subsequent costs for administrative resolution.
5. Policy and Procedures
 - a. Review of Material for Copyright Infringement. All directors, department heads, course coordinators, instructors, and personnel responsible for review and approval of authored works should familiarize themselves with references (a) through (d). Per reference (b), authors are responsible for obtaining permission to use copyrighted photos or graphics. All personnel responsible for review and approval of authored works (includes reports, videos, graphics, studies, presentations, posters, articles, books, etc.) must ensure that authors have obtained permission, via enclosure (1), to use any copyrighted material and that the authored work states that the copyrighted material is used by permission from the copyright owner.

b. Guidelines for Use and Requesting Permission. Copyright law allows for limited fair use of copyrighted materials for nonprofit, educational purposes; such as the reproduction by a teacher or student of a small part of a work to illustrate a lesson. Fair use also includes the use of short passages in a scholarly or technical work or for illustration or clarification of the author's observations. Apart from such limited fair use, if the copyright owner's permission has not been obtained, the copying is unauthorized and results in copyright infringement. Personnel of BUMED and subordinate commands must request permission for any use that would not be considered fair use exceptions. Authors should seek legal counsel if questions arise regarding fair use.

(1) Instructors should weigh the cost versus benefit in determining whether to purchase materials or obtain copyright permission for instructional materials. Legal advice and review should be obtained for questions as to whether a particular work is protected by copyright, or whether a particular use would be infringement.

(2) Guidelines for requesting permission for copyright use are located in reference (a). Enclosure (1) is an example for requesting permission for copyright use. If submitted in hardcopy, the request must be submitted in duplicate to the copyright owner so the recipient may retain a copy and return the other if granting permission. The original copyright authorization (permission for use) must be retained in command files.

c. Identification of Copyrighted Material Used in Government. In all cases where copyrighted materials are used; especially when used as student handouts, instructors must ensure the material is identified as being copyrighted, source(s) are appropriately identified, and proper copyright credits are given.

d. Copyright Protection for Government Employees. As discussed in references (b) and (c), copyright protection is not available for works prepared by officers or employees of the U.S. Government as part of their official duties.

e. Use of Navy Copyrighted Material. The alteration of official imaging by persons acting for or on behalf of the Department of Defense (DoD) is prohibited, except as listed:

(1) Photographic techniques such as dodging, burning, color balancing, spotting, and contrast adjustment that are used to achieve the accurate recording of an event or object are not considered alterations.

(2) Photographic and video image enhancement, exploitation, and simulation techniques used in support of unique cartography; topography; engineering; geodesy; intelligence; criminal investigation; medical uses; research, development, test and evaluation; scientific uses; and training requirements are authorized if they do not misrepresent the subject of the original image.

(3) The obvious masking of portions of a photographic image in support of specific security, criminal investigation, privacy, or legal requirements is authorized.

(4) The use of cropping, editing, or enlargement to selectively isolate, link, or display a portion of a photographic or video image is not considered alteration. Cropping, editing, or image enlargement that has the effect of misrepresenting the facts or circumstances of the event or object as originally recorded is prohibited.

(5) Photographic and video post-production enhancement, including animation, digital simulation, graphics, and special effects, when used for dramatic or narrative effect in education, recruiting, safety and training illustrations, publications, or productions is authorized under either of the listed conditions:

(a) The enhancement does not misrepresent the subject of the original image.

(b) It is clearly and readily apparent from the context or from the content of the image or accompanying text that the enhanced image is not intended to be an accurate representation of any actual event.

f. Digital conversion and compression of official DoD imagery is authorized for use as described in subparagraphs 5e(1) through 5e(5) of this instruction.

6. Format. Enclosure (1) should be used in requesting approval to use copyrighted material. It can be sent electronically or physically. The response from the content owner can also be sent electronically or physically and must include a signature approving the use of the copyrighted material.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned per the records disposition schedules located on the Department of the Navy Directorate for Administration, Logistics, and Operations, Directives and Records Management Division portal page at <https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact the local records manager or the Department of the Navy Directorate for Administration, Logistics, and Operations, Directives and Records Management Division program office.

8. Review and Effective Date. Per OPNAVINST 5215.17A, Office of Communications, (BUMED-M09B7) will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, DoD, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.



G. D. SHAFFER
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Releasability and distribution:

This instruction is cleared for public release and is available electronically only via the Navy Medicine Web site, <https://www.med.navy.mil/directives/Pages/BUMEDInstructions.aspx>

FORMAT FOR REQUESTING PERMISSION FOR COPYRIGHT USE
(LETTERHEAD)

5870
Code/Serial number
(Date)

(Name of copyright owner or agent)
(Address)
(City, State, Zip)

(Salutation)

(Name of Activity) requests your permission as copyright owner or agent for the right to reproduce the identified material for the use(s) shown for the Department of the Navy.

(Complete identification of the material)
(Designation of exact portion of the material to be copied)
(Statement of intended use(s) of the material)
(Contemplated modifications of the material, if any)

If the requested permission is granted, please sign below and return this original letter in the enclosed self-addressed envelope. A copy of this letter is included for your records.

(Complimentary close)

(Signature of requestor)

PERMISSION:

The requested permission is granted, royalty-free. A notice of copyright and credit line is desired as listed:

(Leave at least 8 lines for credit line.)

I hereby certify that I have the authority to grant this permission.

(Name of copyright owner or authorized agent)
DATE: _____ BY: _____

(Title)