

CONEMAUGH HEALTH SYSTEM
Memorial Medical Center
SCHOOL OF NURSING

Institutional Policies and Sanctions Related to Copyright Infringement

Definition

Copyright is a constitutionally conceived property right designed to promote the creation and dissemination of original works of authorship. Specific exclusive rights are granted to the copyright owner with respect to the owner's work in the U.S. Copyright Act (Title 17, U.S. Code). In order for an individual, who is not a copyright holder to procure a work, he/she must ordinarily obtain copyright permission prior to reusing or reproducing the work. Original works of authorship are protected. Unpublished and non-print materials are also protected. Copyright law does not protect ideas, data, or facts. Permission is not required for reading or borrowing original literary works or photographs from library collections. Some specific exceptions for certain academic uses are included in the copyright act.

Fair Use

(Stanford University Libraries maintains an informative and educational website on fair use at <http://fairuse.stanford.edu/overview/fair-use/>)

Copyright Act (Section 107) provides for limitations on exclusive rights: Fair Use. Notwithstanding the provisions of sections 106 and 106a, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in a particular case is a fair use the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for the value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

34 CFR 668.43(a)(10)(i)(ii)(iii)

(Regulatory Link taken from the Federal Student Aid Consumer Information website, Institutional Policies and Sanctions Related to Copyright Infringement)

<http://ifap.ed.gov/qahome/qaassessments/consumerinformation.html>

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- (i) *A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the student to civil and criminal liabilities*

Violation of Federal Copyright Laws

The unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, is an act of infringement of the Copyright Act (Title 17 of the United States Code). Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act. These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement. There are three elements that must be in place in order for the infringement to occur (1. The copyright holder must have a valid copyright, 2. The person who is allegedly infringing must have access to the copyrighted work, and 3. The duplication of the copyrighted work must be outside the exceptions).

CHS does not permit the illegal sharing of copyrighted materials over the Hospital's Network to include uploading to SharePoint or other websites within the network, sending via email, or loading to a file share on the network. Any student at CHS who participates in an unauthorized action that violates copyrighted material is subject to civil and criminal liabilities.

- (ii) *Summary of the penalties for violation of Federal copyright laws*

Copyright Infringement Penalties

Liabilities for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringement. For "willful" infringement, a court may award up to \$150,000 per work infringement. A court can, at its discretion, also assess costs and attorneys' fees, issue an injunction to stop the infringing acts, and impound the illegal works. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, please see the website of the U.S. Copyright Office at www.copyright.gov especially their FAQ's at www.copyright.gov/help/faq .

- (iii) *A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system*

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CHS/LifePoint Health Copyright Policies and Disciplinary Actions

(The following is adapted from the LifePoint Health LL.016, Copyright Policy, Active 09/2014)

<https://lpnt-conemaugh-memorial.policystat.com/policy/374267/latest/>

It is the policy of CHS to ensure compliance with copyright laws and licensing requirements, and to avoid infringement of copyrights. No student will reproduce any copyrighted material without the express permission of the copyright holder, unless licensed under an agreement with the Copyright Clearance Center (CCC), Broadcast Music Inc. (BMI) or American Society of Composers, Authors and Publishers (ASCAP) to do so. Copyrighted works include, but are not limited to, printed articles from publications, magazines, books, television and radio programs, videotapes, musical performances, photographs, training materials, manuals, documentation, software programs, and databases. In general, the laws that apply to printed materials are also applicable to visual and electronic media and include diskettes, CD-ROMS and World Wide Web pages.

With only very narrow exceptions, copyright laws prohibit anyone from reproducing any copyrighted work, whether in print, video, electronic, or any other form. Works are protected by copyright laws in the United States even if they are not registered with the U.S. Copyright Office and even if they do not carry the copyright symbol.

(The following is adapted from the CHS Patent and Copyright Policy for Research Studies, Active 01/2008)

<https://lpnt-conemaugh-memorial.policystat.com/policy/1935598/latest/>

A U.S. patent is a grant issued by the U.S. Government giving an inventor the right to exclude all others from making, using, or selling the invention within the United States, its territories and possessions for a period of 20 years. When a patent application is filed, the U.S. Patent Office reviews it to ascertain if the invention is new, useful, and nonobvious and, if appropriate, grants a patent – usually two to five years later. Other countries also grant similar patents. Not all patents are necessarily valuable or impervious to challenge.

Copyright is the ownership and control of the intellectual property in the original works of authorship which are subject to copyright law. Any invention or discovery created or made in the course of employment or in a Clinical Trial conducted at CHS solely by one or more employees of CHS shall be owned by CHS, and CHS shall have the sole right to determine whether to file patent or copyright applications.

Requirements:

1. The rights to any invention or discovery created or made in the course of the Clinical Trial conducted at CHS solely by the sponsor of the research study, shall be determined by the Clinical Trial Agreement or by law.

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2. The rights to any invention or discovery created or made in the course of the Clinical Trial conducted at CHS by one or more employees of CHS jointly with the sponsor of the clinical trial shall be determined by the Clinical Trial Agreement or by law.
3. This Patent and Copyright Policy shall not be interpreted to limit CHS's ability to meet its obligations for deliverables under any contract, grant, or other arrangement with third parties, including sponsored research agreements, license agreements and the like. Patented works that are subject to sponsored research agreements or other contractual obligations of CHS will satisfy any contractual obligations.

(The following is adapted from the CHS Human Resources Policy Manual, Corrective Counseling/Discipline & Behavior Accountability) <http://mmc-riskman.sharepointapp.conemaugh.org/policy/Human%20Resources/Corrective%20Counseling-Discipline%20and%20Behavioral%20Accountability.pdf>

The purpose of this policy is to foster a culture of learning by establishing a balance of non-punitive learning methods with the assignment of individual accountability for unacceptable behaviors. The School of Nursing (SON) will encourage peer and self reporting by the use of non-disciplinary actions whenever appropriate. In addition, the SON will provide a method for communicating unacceptable performance or behaviors to students, mutually developing plans that can correct or improve the problems, or when efforts fail to achieve the desired results, implementing the appropriate corrective action.

SON students at CHS are expected to act in the best interests of our Health System at all times and to contribute productively to the operations of the organization. It is the SON's desire to encourage learning from student errors or adverse events while applying the correct level of accountability for the behavior that caused the error, event, or pattern of unwelcomed behavior.

Depending on the level of accountability, the action to be taken by the SON faculty instructor with collaboration from the Assistant Director and/or Director, School of Nursing, as appropriate, may include support for the individual, education and coaching, and/or corrective counseling/disciplinary measures up to and including termination.

Prior to corrective counseling/disciplinary measures, the SON faculty instructor and the Assistant Director and/or Director, School of Nursing will investigate to determine the cause of the error, adverse event, or unacceptable behavior. The investigation may consider the following:

1. Was the action intentional?
2. Was copyright law knowingly violated?
3. Were copyright policies available, clear, and correct?
4. Was the action a result of inexperience, a lack of training, or inappropriate assignment?
5. Would others behave similarly in the same situation?

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6. Have others been disciplined or counseled for the same or similar behavior or conduct?
7. Is there a history of inappropriate behavior?
8. Is accountability impacted by mitigating circumstances?
9. Is there a violation of Federal or State laws and /or supporting Compliance and Legal policies?

Upon reaching a determination from the investigation, the following guidelines may be applied as appropriate for error, adverse event or other unacceptable behaviors within the student's control:

1. Support for the individual, including education and coaching as a method of non-punitive learning.
2. Apply corrective counseling/disciplinary measures up to and including termination.

Corrective counseling/disciplinary measures up to and including termination will be taken when a student fails to meet the standards of performance and/or behavioral expectations of the SON. Corrective actions are discussed with the student and where appropriate, improvement plans are developed to assist the student in achieving the SON's expectations within reasonable timeframes.

The student is asked to sign the documentation to verify that he/she understands the content of the written disciplinary action/correction plan and that the student further recognizes the implications of unacceptable behaviors on his/her future program retention with the SON. If the student refuses to sign the documentation, the SON faculty instructor and the Assistant Director and/or Director, School of Nursing should document the student's refusal accordingly and place a copy in the SON student file. Student refusal to sign the documentation does not negate the validity of the written disciplinary action/correction plan.

All documentation related to corrective counseling/disciplinary action is property of the SON. The copyright corrective action documents are to be maintained in the SON student file and shall not be removed. The SON faculty instructor and the Assistant Director and/or Director, School of Nursing or designee, upon request from a current/active student, may agree to review some or all of the contents of the student's file with the student. The photocopying and/or scanning of SON student file documents may only be approved by the SON faculty instructor and the Assistant Director and/or Director, School of Nursing or designee.

Corrective actions will consist of the following measures:

1. Documented verbal warning.
2. First written corrective action report.
3. Second written corrective action report with re-affirmation.
4. Suspension and pending investigation.

These actions will generally be applied based on the following guidelines:

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1. Documented Verbal Warning: A documented verbal warning should be given when a SON faculty instructor with collaboration from the Assistant Director and/or Director, School of Nursing observes that a student's performance or work habits are not up to standard. The SON faculty instructor and the Assistant Director and/or Director, School of Nursing should make special face-to-face attempts to correct problems that occur. The SON faculty instructor and the Assistant Director and/or Director, School of Nursing should record the date, subject and other pertinent information regarding the documented verbal warning on the *Copyright Corrective Action Form*. At this point, the student may be given an opportunity to review and sign the documentation. A date, time and place for a follow-up meeting should be established. Depending on progress, there may be more than one discussion of this nature.
2. First Corrective Action Report (Written Warning): Violations of SON copyright policy are formally recorded on the *Copyright Corrective Action Form* which serves as an official record. The form should be completed and signed by the Assistant Director and/or Director, School of Nursing and the student. The student must be given a copy of this *Copyright Corrective Action Form* report. The original report along with any documented verbal warnings must be sent to the Assistant Director and/or Director, School of Nursing for review and subsequent inclusion in the SON student file. All reports are to be signed by the student, acknowledging that he/she has read them. The student has the right to disagree with any report which he/she feels is unjust. If this should occur, the student should write his/her comments on the space provided on the form. If the student refuses to sign the report, a notation should be made by the Assistant Director and/or Director, School of Nursing that the student has read the report but refused to sign.
3. Second Corrective Action Report with Re-Affirmation (Final Written Warning): If a student who has been given written notice of repeated violations of the SON copyright policy fails to show improvement, he/she will receive a Final Written Warning. At this step in the progressive discipline process, the student will receive a final warning that he/she is failing to meet the expectations set forth. At this time the student will be asked to re-affirm in writing his/her desire to meet the expectations provided by the SON. Failure to do so will result in the student's discharge from the SON.
4. Suspension Pending Investigation: A decision to suspend a student pending investigation is made by the Director, School of Nursing in consultation with the Assistant Director, School of Nursing (with collaboration from the Facility Ethics and Compliance Officer as appropriate). The student can be suspended indefinitely and informed he/she may be discharged pending the outcome of the investigation. Normally, the suspension period should not exceed five working days. Students will not be discharged without first being suspended pending investigation. During the review of the action, the appropriateness of continuing the suspension or discharging the student will be determined.

Generally, the SON policies fall into broad classifications that provide a framework for discipline. This copyright policy, therefore, does not cover every potential contingency for discipline/corrective

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action. Other forms of conduct may exist which could result in student discipline. The SON reserves the right to implement corrective actions including, but not limited to, suspension and termination, even though the violations may not be specified in this policy.

All students are required to report all known or suspected violations of Federal or State fraud and abuse laws, Federal or State self referral laws, and/or the underlying Compliance and Legal policies that support such compliance, including without limitation those relating to referral source arrangements and probable overpayments from governmental payers. Such violations should be reported to the Facility Ethics and Compliance Officer, Administration, or Ethics Line at 1-877-508-LIFE (5433).

All potential violations of Federal or State fraud and abuse laws, legal policies, or Ethics and Compliance policies must be reported to the LifePoint Hospital Support Center Legal and Ethics and Compliance Departments within one business day or as soon thereafter as possible, given extenuating circumstances. For such violations, the Facility Ethics and Compliance Officer and the Director, School of Nursing will complete a root cause analysis of confirmed violations to determine the reason for the violation, appropriate disciplinary/corrective actions, and required training and education. All documentation will be placed in the SON student file.

Although this policy is generally based on specific corrective action, there is certain conduct that *may* result in termination from the SON without advance notice, including, but not limited to copyright infringement.

The intent of this policy is to provide fair and impartial treatment to all students. It is evident that this policy covers only the most significant areas and does not include other occasional or special cases and should not be construed as a detailed description of all circumstances that might arise in the administration of this program. Any points not specifically covered by this policy must be considered by the SON faculty instructor in conjunction with the Assistant Director and/or Director, School of Nursing as appropriate. It must be emphasized that there is no substitute for supervisory experience and judgment in the administration of this policy.

Nothing in this policy is intended to restrict whatever rights you may have under Federal, State or Local Laws.

RELATED POLICIES/PROCEDURES/GUIDELINES AND FORMS

Code of Conduct

School of Nursing Manual

Conemaugh School of Nursing Student Guide

Copyright Corrective Action Form

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SIGNATURE:

Lisa Devineni, PhD, CRNP, NP-C
Director, School of Nursing and Allied Health Programs

ORIGINAL POLICY DATED:

NEXT REVIEW DATE: