

Edward Via Virginia College of Osteopathic Medicine

Policy Order No. U025

Effective Date: October 1, 2010

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VCOM Policy on the Use and Misuse of Digital Copyrighted Material

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1. PURPOSE

The Use and Misuse of Digital Copyrighted Material Policy governs VCOM students, faculty and staff. The purpose of this policy is to provide information as it pertains to federal law, including provisions of the Higher Education Opportunity Act (HEOA) and state law (Virginia and South Carolina). In addition, the policy pertains to all forms of copyrighted material, including, but not limited to print, audio-visual, and electronic media.

VCOM is required by Federal Law—H.R. 4137, Higher Education Opportunity Act (HEOA)—to make annual disclosures informing VCOM students, faculty and staff that illegal distribution of copyrighted materials may lead to civil and/or criminal penalties.

2. DIGITAL MILLENNIUM COPYRIGHT ACT COMPLIANCE

The Digital Millennium Copyright Act (DMCA) was enacted in 1998. With its enactment, the DMCA updated the United States Copyright law to encompass the growing use of electronic media and the Internet.

2.1. VCOM DMCA Agent for Notification

Pursuant to the DMCA, a designated agent for notification of copyright infringement claims must be named. Since Virginia Tech is the online service provider for VCOM, Virginia Tech has designated such an agent. That agent provides notices of copyright infringement claims to the following VCOM staff:

Bill Price
Associate Vice President, Operations
VCOM
2265 Kraft Drive
Blacksburg, VA 24060
Email: bprice@vcom.vt.edu

Gary Brewer
Director, Information Technology
VCOM
2265 Kraft Drive
Blacksburg, VA 24060
Email: gbrewer@vcom.vt.edu

The process for notification is that when Virginia Tech receives an original complaint of a copyright violation emanating from VCOM's wireless network and building, VCOM's Associate Vice President, Operations and Director, Information Technology are notified immediately. VCOM has 24 hours to remove the infringing materials. If VCOM's Information Technology Department does not rectify the infringement, Virginia Tech has the authority to disable VCOM's network access.

3. PEER-TO-PEER FILE (P2P) SHARING

Industry organizations such as the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) have filed copyright infringement lawsuits against individual college students who have used a file sharing program to download copyrighted material.

P2P file sharing programs were developed to allow distribution and/or shared access to digitally stored information, such as computer programs, multimedia (music and video), documents, or electronic books. While some P2P technologies are legitimate, others are not. Most commercially produced music and movies are copyrighted and cannot be freely shared. Using P2P file sharing software to distribute copyrighted materials without the permission of the copyright holder is illegal and violates US copyright law. The purpose of this policy is to make users of VCOM's network understand the consequences of copyright laws, specifically those relating to P2P file sharing.

3.1. Annual Disclosure

Each year, VCOM will distribute information via email to students, faculty and staff regarding copyright and digital media rights. Information that will be annually distributed is found in Table A.

4. UNAUTHORIZED DISTRIBUTION OF COPYRIGHTED MATERIAL

Students, faculty and staff are responsible for adhering to the following guidelines for copying and the use of copied materials. The Fair Use Doctrine, as designated by Public Law 94-153, allows copying in certain instances without permission from or payment to the copyright owner. Under this law, it is fair use to reproduce copyrighted materials for purposes of criticism, comment, news reporting, teaching, scholarship, or research. Educational materials and other intellectual property created as a part of a faculty member's position at VCOM will be the property of VCOM.

Four criteria are applied to judge whether or not an infringement in the use of copyright material has occurred:

1. The purpose and character of the use (commercial vs. educational).
2. The nature of the copyrighted work (textbook, workbook, tests, poetry, novel, music).
3. The amount and substantiality of the portion used in relation to the work as a whole. (How much is being copied? How important is the copied portion to the entire work?).
4. The effect of the use on the value of or potential market for the work. (Will the originator suffer unreasonable financial loss?).

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of the required conditions for producing the photocopy or reproduction prohibits the "use for any

purpose other than private study, scholarship, or research". If a user requests, or later uses a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. VCOM reserves the right to refuse the acceptance of a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law. All students, faculty and staff who request and obtain copyright permission in VCOM's name will retain a record of all requests and responses with their department or discipline chairs or with the Department of Medical Education.

VCOM students and employees must utilize the same copyright guidelines giving specific information regarding the copying of classroom materials, photocopying of library materials, copying computer program, obtaining permission to use copyrighted materials, recording broadcast programs, duplicating commercial videotapes, duplicating slides from printed material, and duplicating commercial slides. Copies of the copyright guidelines are available in the library and included in this policy as Table B.

Use of materials without citing appropriate references is considered unethical. Failure of faculty to develop educational materials as contracted is considered unprofessional and in some cases unethical.

5. POLICY ENFORCEMENT

VCOM regards any violation of the Use and Misuse of Copyrighted Material Policy as a serious offence. Violators of this policy are subject to VCOM's disciplinary actions as prescribed in the *Student Policies and Procedures Handbook*, VCOM Honor Code of Conduct; *Faculty Handbook*; and the *Administrative Faculty and Classified Staff Handbook*.

VCOM may terminate the computer rights and services of users who violate laws concerning computer usage or VCOM's Information Technology policies.

6. DURATION OF POLICY

The Use and Misuse of Copyrighted Material Policy established by the Operations Department and the Information Technology Department is effective as of the date above and shall remain effective until amended or terminated by the President and the Dean.

TABLE A**Annual Notice: Consumer Information, Summary of Civil and Criminal Penalties, and Legal Alternatives****Consumer Information**

VCOM complies with the provisions of the Digital Millennium Copyright Act (DMCA). As described in Federal Law, Title 17 of the US Code and the Digital Millennium Copyright Act, 105 PL 304, it is illegal to download, upload, or distribute in any fashion, copyrighted material, in any form without permission or a license to do so from the copyright holder.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

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 (Title 17 of the United States Code). 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.

Penalties 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 infringed. For “willful” infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. 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.

Legal Alternatives to Peer-to-Peer File (P2P) Sharing

The Recording Industry Association of American (RIAA) and the Motion Picture Association of America (MPAA) have websites that list legal alternatives to illegal P2P. Some of those include:

Music

- iTunes
- Pandora
- amazonMP3
- Last.fm

Movies and Television

- iTunes
- Hulu
- Netflix Watch Instantly
- YouTube
- Major Television Network Websites

Radio Stations

- www.shoutcast.com
- www.Live365.com

For more information about legal alternatives, please visit:

RIAA: www.riaa.org

MPAA: www.mpa.org

Policy Enforcement

Violators of VCOM copyright policy (Use and Misuse of Copyrighted Material Policy) are subject to VCOM's disciplinary actions as prescribed in the *Student Policies and Procedures Handbook*, VCOM Honor Code of Conduct; *Faculty Handbook*; and the *Administrative Faculty and Classified Staff Handbook*.

VCOM may terminate the computer rights and services of users who violate laws concerning computer usage or VCOM's Information Technology policies.

TABLE B**Guidelines to Reference Reporting and Citations**

The guidelines published in this table closely relate to the style guidelines required by the *Journal of American Osteopathic Association (JAOA)*.

References are required for all material derived from the work of others. References cited in text must be listed in numerical order rather than as alphabetized bibliographic entries. However, references used as general source material from which no specific information is taken should be listed in alphabetical order after the numbered references.

Journal references should include the names of all authors, the complete titles of the articles, the names of the journals, volume numbers, dates, inclusive page numbers, and, if available, direct uniform resource locators (URLs) to open access articles.

Book references should include the names of all authors or editors, chapter titles, book titles, names and locations of the publishers, the year(s) of publication. References for quotations should include exact page numbers in both books and journal articles.

References appearing in the references section are numbered sequentially, appear in the text in that order, and are formatted according to the following examples:

Reference Reporting Format***Journal***

1. Mobey TS, Dean, Baron DR, James RB. Do internal medicine physicians differ in patient care from emergency medicine trained physicians in the Emergency Department? *J Am Osteopath Assoc.* 2002; 93:213-318.

Book Chapter

2. Seffinger MA, King HH, Ward RC, Jones JM, Rogers FJ, Patterson MM. Osteopathic philosophy. In: Ward RC, ed. *Foundations for Osteopathic Medicine*. Baltimore, Md: Lippincott Williams & Wilkins; 2003:3-12.

Website

3. Folio LR, Lahti RL, Cockrum DS, Bills S, Younker MR. Initial experience with mass immunization as a bioterrorism countermeasure. *J Am Osteopath Assoc.* 2004;104:240-243. Available at: <http://www.jaoa.org/cgi/content/full/104/6/240>. Accessed August 23, 2004.

Tables and Graphs

All tables and graphs must have headings, and must contain the data source within the table or graph. If the table and/or graph is copied from another source, that source must be listed in a separate table/graph reference section.