

MMSE Copyright Frequently Asked Questions

The distribution to the field of a memo regarding the copyright status of the Mini Mental State Exam (MMSE) has generated a number of questions surrounding what is acceptable practice in the use of the MMSE.

It is not intended to tell clinicians that they cannot use the MMSE exam in their clinical practice (or research). Rather, given the copyright claimed by Psychological Assessment Resources, Inc. ("PAR"), we wanted to ensure that the ways in which the MMSE are used do not infringe upon that claimed copyright while we look into this matter.

The following is a Frequently Asked Questions document that provides some answers to some of the most commonly raised issues. We plan to follow up with additional FAQs on an as-needed basis.

1. Q: Is the intent of the memo to tell the field that the MMSE cannot be used any longer?

A: No, not at all. Our intention is to make clinicians and researchers aware of the current copyright status of the instrument (the copyright was transferred to PAR in 2001). We also want to ensure that its usage within VHA does not infringe upon that copyright.

2. Q: What are some of the ways that the MMSE can be accessed that would not be considered infringing on the PAR copyright?

A: There are multiple ways to access the MMSE that would not infringe upon the copyright.

- * obtaining copies from a third party that has permission to distribute it. For instance, several sites have reported that they receive/have received copies from drug companies, and that the forms state reprinted with permission. These can be used without infringing on the copyright.

- * several VISNS (but not all) have institutional subscriptions to UpToDate. Although we were initially advised that any staff member in a VISN with institutional memberships to UpToDate could print out as many copies as desired from UpToDate for clinical or research purposes, that communication has been rescinded. Until the end of this year, we may access the MMSE at UpToDate, but we may not print out copies. (We have been informed that UpToDate will be removing the MMSE from its website at the end of the calendar year).

- * tests and answer sheets can be purchased from the copyright holder, PAR.

3. Q: What is UpToDate, and how do I know if my facility has access to it?

A: UpToDate is a clinical reference database. This is the description from their informational web page:

UpToDate is a comprehensive evidence-based clinical information resource available to physicians on the internet, CD-ROM, and Pocket PC. UpToDate is designed to get physicians the concise, practical answers they need when they need them the most - at the point of care.

Most, but not all VISNs have institutional subscriptions to UpToDate. To find out if your facility has a subscription (or how to access it), contact your librarian or educational department.

4. Q: We have received copies of the MMSE from Pfizer. May we use them?

A: Yes. Given the current situation, we checked with Pfizer directly and were advised that we may use all originals of the MMSE distributed by Pfizer.

5. Q: Can I make copies of the forms given to me by Pfizer?

A: No. Pfizer was given a license to reproduce and distribute the MMSE. We do not have a license to copy and/or distribute any version of the MMSE.

6. Q: Does using forms with the Pfizer logo violate VA guidelines against endorsing specific products or companies?

A: We ran this by one of the attorneys in the Office of General Counsel, who specializes in ethics. His response was that as long as the forms are being accepted as gifts by a VHA official with authority to accept them, the fact that the form includes the Pfizer logo would not alone appear to violate the rule that prohibits Federal employees from endorsing any product, service, or enterprise.

7. Q: Does the administration of the MMSE in a clinical setting constitute copyright infringement?

A: No. As long as the MMSE is not copied or reproduced, the administration of the test does not constitute copyright infringement. Hence, if a person has an authorized (legal) version of the MMSE (a copy that was not illegally obtained or produced) or has it memorized and administers the test, there has been no copyright infringement. Answers and scores may be recorded. Please note two important caveats: 1. we should not copy (infringe on the copyright of) the official answer sheet being distributed by PAR; 2. Administering any standardized assessment instrument from memory may impact the quality of the administration, and therefore the results. Thus, caution should be taken before embarking upon administration strictly from memory.

8. Q: May we save patient-specific information (recorded answers to the MMSE)?

A: Yes, if you are saving the recorded answers on a form that you obtained from a source that had permission to distribute the answer sheet (for example Pfizer) or using a purchased answer sheet from PAR. Additionally, you may record and save the answers given and the score (without the questions themselves) in a progress note/chart.

9. Q: Can we have an answer sheet for the MMSE in CPRS for internal use?

A: We are working on this issue to see if we can suggest a non-infringing answer sheet. However, a CPRS template that contains the questions to the MMSE would constitute copyright infringement.

10. Q: Must we destroy distributed copies of the MMSE geriatric pocket cards from the Sepulveda GRECC that were made prior to 2001?

No. However, we should not make copies of those pocket cards.

11. Q: Is it permissible to make copies of the MMSE from journal articles?

A: At an institutional level, the answer is no. However, on an individual level, the answer to this question depends on an analysis of whether the fair use provisions of copyright law are applicable.

12. Q: Are the guidelines for medications going to change to allow interpretation of other cognitive screening instruments? Currently, the PBM website suggests monitoring with MMSE for such meds as memantine.

A: PBM is aware of the copyright issues related to the MMSE. They have agreed to work with a group that is evaluating possible alternative instruments that could be used in addition to the MMSE for monitoring patients on Alzheimer's medications such as memantine. More information will be forthcoming regarding this specific issue.

13. Q: For training of medical students, residents, and fellows are there recommendations for screening instruments?

A: As noted above, we are establishing a workgroup from experts in assessment of cognitive impairment to evaluate possible alternatives to recommend to the field. Those will be forthcoming.

14. Q: If there are other instruments suggested is there a "conversion table" for those used to the MMSE scoring system?

A: Research on brief assessment instruments for cognitive impairment often compare the performance of the instrument being evaluated to the MMSE, since it has been so widely used in the field. If possible, we will create a "conversion table" to summarize those comparisons.

Please note: We are reviewing copyright issues related to the MMSE. If anyone in the field has input/evidence concerning copyright issues related to the MMSE (such as abandonment of copyright, intent and/or action(s) to dedicate the MMSE to the public domain, or publication of the MMSE prior to March 1, 1989 without a notice of copyright), please contact us and provide the information.

For more information, please contact:

Kathleen Lysell, Psy.D.
Associate Chief Consultant for Informatics
Office of Mental Health Services
Honolulu, HI 96819
Ph 808-433-0045
kathleen.lysell@va.gov

Susan G. Cooley, Ph.D.
Chief, Geriatric Research & Evaluation
Chief, Dementia Initiatives
Office of Geriatrics & Extended Care (114)
Ph 561-422-2355
susan.cooley@va.gov

Jay C. Noh (024C)
VA Attorney
Office of General Counsel
(202) 273-6356
jay.noh@va.gov