



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
2300 E STREET NW
WASHINGTON DC 20372-5300

IN REPLY REFER TO
BUMEDINST 6120.20C
BUMED-M00J
31 Oct 2011

BUMED INSTRUCTION 6120.20C

From: Chief, Bureau of Medicine and Surgery
To: Ships and Situations Having Medical Personnel

Subj: COMPETENCE FOR DUTY EXAMINATIONS, EVALUATIONS OF SOBRIETY,
AND OTHER BODILY VIEWS AND INTRUSIONS PERFORMED BY MEDICAL
PERSONNEL

Ref: (a) SECNAVINST 5820.7C
(b) OPNAVINST 11200.5D

1. Purpose. To provide updated instructions concerning the use of NAVMED 6120/1, Competence for Duty Examination, and to provide guidance concerning evaluations of sobriety and bodily views and intrusions.
2. Cancellation. BUMEDINST 6120.20B
3. Background. In instances of possible intoxication, drug abuse, or adverse reactions to medications, there may be a need to evaluate a person's sobriety to determine whether the person is competent to perform duty, to operate a motor vehicle, or to perform other functions. NAVMED 6120/1 is designed to assist in such instances, since medical personnel often assist commanding officers, officers in charge, civilian employees' supervisors, and other proper authority in ascertaining the degree of sobriety. Medical personnel are also requested to assist in accomplishing views of the human body or bodily intrusions for reasons of military justice.
4. Policy
 - a. An evaluation of sobriety can have many legal and administrative ramifications. It must be carefully made. The admissibility of evidence gained from such an evaluation is not a matter for Navy Medicine personnel to decide. No evidentiary privilege attaches to the information. Medical personnel can legally be required to provide a complete report of their findings to the requesting authority without the consent of the patient. Subject to the requirements of this instruction, medical personnel shall cooperate with law enforcement personnel and other proper authorities in evaluating sobriety, determining competence for duty, making bodily views, and accomplishing bodily intrusions without regard to the legal competence of the evidence to be obtained.
 - b. In instances of need for samples of body fluids for therapeutic purposes, such samples may be drawn with patient consent and may be used both for medical and appropriate evidentiary purposes.

c. For most competence for duty examinations, clinical observation alone is sufficient. Drawing samples of body fluids for such purposes is discouraged.

d. If law enforcement personnel or other authority request samples of body fluids and there is no medical necessity for them, medical personnel may assist in drawing the samples, subject to the following restrictions:

(1) Except when a valid search warrant or command authorization has been issued, or when law enforcement officials indicate that a warrant or command authorization is not required (such as when delay to obtain a warrant could result in destruction of evidence that it is reasonably anticipated will be found), medical personnel shall not assist in the taking of samples of bodily fluids against a person's will.

(2) Military medical personnel shall not assist in acquiring evidence (whether by clinical observation or the taking of samples) solely for the purpose of enforcing or executing local, state, or Federal civil laws. Doing so would contravene the posse comitatus policy expressed in reference (a). However, the traffic safety program contained in reference (b) provides a legitimate military purpose for drawing samples of bodily fluids to determine the sobriety of an individual when for such determination has arisen from such individual's control of a motor vehicle on a military installation, or off the installation if the individual is a Service member or resident of the military installation. The same reasoning can also be applied to offenses committed under the Uniform Code of Military Justice. Therefore, medical assistance under these types of circumstances does not generally violate the posse comitatus policy.

(3) Samples of bodily fluid shall not be taken if, in the opinion of the physician, doing so would endanger the life of the patient.

e. All views of or intrusions into the body performed by Navy Medicine personnel pursuant to this instruction shall be accomplished with due regard for the individual's privacy and, wherever possible, by a medical officer.

5. Action

a. Navy Medicine personnel shall assist in executing views of or intrusions into the body in conformance with the policies set forth above when requested by competent authority.

b. Addresses shall use NAVMED 6120/1 in accordance with the instructions on the form and the requirements of this instruction to record the results of competence for duty examinations and evaluations of sobriety when requested by proper authority. Previous editions of NAVMED 6120/1 are obsolete.

c. Addresses shall consult with the nearest staff judge advocate or Region Legal Service Office regarding questions of a legal nature arising out of the implementation of this instruction.

BUMEDINST 6120.20C

31 Oct 2011

6. Form. NAVMED 6120/1 (Rev. 10-2011), Competence for Duty Examination is available electronically from Naval Forms Online at: <https://navalforms.daps.dla.mil/web/public/home>.

A handwritten signature in cursive script that reads "A. M. Robinson, Jr.".

A. M. ROBINSON, JR.

Distribution is electronic only via the navy medicine Web site at:

<https://www.med.navy.mil/directives/Pages/default.aspx>