Two sections of the Copyright Revision Act of 1976 are most relevant to libraries, and in particular, Interlibrary Loan itself. Section 107 outlines “fair use” and Section 108 addresses the reproduction of copyrighted materials by libraries and archives. Subsection 108(g)(2) defines the rights of libraries or archives to participate in interlibrary loan arrangements so long as these arrangements do not serve as a substitute for subscribing or purchasing works for which there is a recurring need. The CONTU (National Commission on New Technological Uses of Copyrighted Works) guidelines were created to serve as an aid to the interpretation of subsection 108(g)(2). As a result, Medical College of Wisconsin Libraries believes the following policy is in keeping with our mission to be facilitators in the educational process while remaining in the “safe harbor” of U.S. copyright law.

1. MCW Libraries will place a Display Warning of Copyright in all areas where Interlibrary Loan requests are accepted. [Section (108)(d)]

2. The Warning of Copyright order must appear on each Interlibrary Loan request form itself regardless of the format (paper or electronic). The notice shall be printed in such a manner as to be clearly legible, comprehensible and readily apparent to the casual reader of the form. As a result, no phone requests will be accepted. [Section 108(e)]

3. The first page of every photocopied item will include a statement of copyright notice. (NOTICE: This material may be protected by copyright law (Title 17, U.S. Code) [Section 108(a)]

4. Within any given year, the library may receive five copies of articles from any periodical title published within the past five years. Often referred to as the “Rule of Five.” Subsequent articles will be obtained from a copyright clearinghouse for a fee or cancelled as instructed by the patron. [CONTU]

5. For material other than periodicals, the library may receive five copies of portions of a particular work, including a collective work, during the entire period such material is protected by copyright. [CONTU]

6. The Interlibrary Loan Department will archive three years (current year & two previous) of requests. [CONTU]

7. Annually, MCW Libraries will compile an “Over Copyright” report to be studied for recurring patterns of requested works. Material may be recommended for purchase as a result of this review. [Section 107]

8. MCW Libraries will not supply any material to a borrowing library which does not include a Compliance Code (CCG, CCL) on the request. [CONTU]

These policies were based on the American Libraries Association Model Policy & have been approved by MCW General Counsel.

MCW Libraries/August 2000/Final/ jcg; revised July 2002/kh