

 HAWAII HEALTH SYSTEMS CORPORATION <i>Quality Healthcare for All</i> POLICY	Department: Legal	Policy No. ADM 0035A Supersedes Policy No.
	Subject: Preservation of Information in Litigation or Anticipation of Litigation	Approved By: <i>Brenda S. Ho</i> HHSC Board of Directors By: Brenda Ho Its: Secretary/Treasurer

I. **Purpose:** To establish procedures that provide a uniform process for the preservation of relevant evidence where there is a reasonable anticipation of litigation.

II. **Policy Statement:**

State and federal law require a party to take steps to preserve potentially relevant evidence when litigation has been filed or is reasonably anticipated. The administrative (e.g. regulatory agency) or judicial (e.g. court) sanctions that may be imposed on a party that fails to preserve such evidence vary depending on the circumstances, but may include some or all of the following: regulatory fines and penalties; civil litigation consequences such as increased litigation costs, fines, adverse inference instructions, default judgment and civil contempt; vicarious liability for responsible senior management; and criminal liability for organizations and individuals. In addition, it is in HHSC’s best interest to be able to prove HHSC’s case with documentation.

Accordingly, it is the policy of HHSC that both the corporate office and the HHSC regions shall comply with all applicable State and federal laws which require the preservation of evidence – in any form, including paper and electronic/digital – that may potentially be used in litigation. In order to prevent destruction of relevant evidence where litigation has been filed or is reasonably anticipated, it is the policy of HHSC that the corporate office and the HHSC regions suspend all normal destruction practices (such as those contained in HHSC’s Retention of Records Policy and Procedure (CMP 0008A and CMP 0008B)) – as they pertain to any relevant evidence – and place such evidence under a litigation hold.

III. **Applicability:** All HHSC facilities, HHSC staff, regional and corporate boards.

IV. **References:** Haw. R. Civ. P. Rules 26 and 37; Fed. R. Civ. P. Rules 26 and 37

V. **Attachments:** ADM 0035B