



**HAWAII HEALTH SYSTEMS**

C O R P O R A T I O N

*Quality Healthcare For All*

**House Committee on Health  
Representative Della Au Belatti, Chair  
Representative Dee Morikawa, Vice Chair**

Wednesday, February 12, 2014  
Conference Room 329  
8:30 a.m.  
Hawaii State Capitol

**Testimony Supporting House Bill 2315, Relating to the Records of the Hawaii Health Systems Corporation. Establishes the minimum and maximum fee for copies of Hawaii Health Systems Corporation medical records and the method of computing appropriate fees above the minimum.**

Alice M. Hall  
Acting President and Chief Executive Officer  
Hawaii Health Systems Corporation

Thank you for the opportunity to submit testimony in support of HB 2315. The purpose of this bill is to establish minimum and maximum fees for copies of medical records from Hawaii Health Systems Corporation (HHSC) and to authorize HHSC to set rates for copies of records exempt from Chapter 92F, Hawaii Revised Statutes.

The copying of medical records is a labor-intensive process, one that entails specialized training to carefully scrutinize information in compliance with health care privacy and confidentiality regulations. Additionally, medical records often contain documents that are not uniform in size or shape due to the varied forms required and produced by medical tests or procedures. This causes each page to have to be numbered and handled individually in the duplication process. It is not as simple as feeding a stack of papers into an automatic document feeder on a copying machine. These factors cause the cost to prepare a copy of a medical record at an HHSC facility to be conservatively estimated to be at least \$1.09 per page. Recent challenges to this cost have resulted in litigation, consuming valuable time and resources of the facility. This bill, by allowing HHSC to establish rates for copies of medical records, will help to prevent future litigation over these costs. It will also help to reduce the amount of losses experienced by HHSC facilities.

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[www.hhsc.org](http://www.hhsc.org) <<http://www.hhsc.org>>

The bill conservatively sets the default price at one dollar per page and allows a facility to establish a higher cost up to two dollars per page by evaluating the actual costs. This measure will reduce litigation, saving the tax payers thousands of dollars.

Your consideration of this request would be greatly appreciated. Thank you for the opportunity to submit testimony.



## OFFICE OF INFORMATION PRACTICES

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To: House Committee on Health

From: Cheryl Kakazu Park, Director

Date: February 12, 2014, 8:30 a.m.  
State Capitol, Conference Room 329

Re: Testimony on H.B. No. 2315  
Relating to Records of the Hawaii Health Systems Corporation

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) seeks clarification of this bill, which is intended to establish minimum and maximum fees for copies of Hawaii Health Systems Corporation (“HHSC”) medical records.

The bill (at page 2, lines 8-9) would give HHSC “the authority to set rates for copies of records exempt from chapter 92F.” However, chapter 92F, HRS, the Uniform Information Practices Act (“UIPA”), does not set rates for **copies** of records. Section 92-21, HRS, **which is not part of the UIPA**, sets a minimum rate of \$.05 per page for copies of records. The UIPA requires OIP to set by rule “fees and other charges that may be imposed **for searching, reviewing, or segregating** disclosable records.” HRS § 92F-32(13) (emphasis added). Pursuant to that requirement, OIP has set out fees for search, review, and segregation of records under the UIPA in chapter 2-71, HAR. OIP’s rules also allow an agency to charge for “other lawful fees,” which would include the **copy** fees set by section 92-21 as well as postage or similar costs. **OIP’s rules apply only to UIPA requests,**

**and would not apply to records produced under subpoena**, as the subpoena and discovery process is a separate process subject to court rules..

Based on the justification sheet, it appears that the rates proposed by this bill were actually intended to include “[t]he cost of searching for and producing a medical record,” not just the cost of reproduction. However, as written it would apparently set a **copy charge of between \$1.00 and \$2.00 per page** when HHSC responds to a UIPA request, **in addition to the search, review, and segregation fees** HHSC is entitled to charge under chapter 2-71. The bill language is also **not limited to requests for medical records** as stated in the justification sheet and bill description, as it would give HHSC the authority to set its own copy charges for all its records.

OIP’s understanding is that HHSC’s intent is to set a fixed rate covering the full process of producing and copying medical records, primarily to avoid disputes arising in the context of litigation. While UIPA requests are a separate process from subpoenas and discovery, OIP would not have a problem with applying the flat fee to UIPA requests for medical records as well, in light of the limited nature of the records covered and HHSC’s quasi-commercial function distinguishing it from typical state agencies, and to negate the potential for people trying to game the system by using the UIPA to achieve what litigation cannot. To limit the fixed rate only to medical records of HHSC and not affect any other agencies subject to the UIPA, OIP recommends that the new subsection 323F-6(b) proposed by this bill beginning at page 2, line 8, should instead read as follows:

“(b) Notwithstanding section 92-21 and chapter 92F, the corporation shall have the authority to set a flat rate for searching for, reviewing, segregating, and copying medical records whether requested pursuant to chapter 92F, pursuant

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to subpoena, or in some other manner; provided that the rate shall be no less than \$1 per page and no more than \$2 per page.”

Thank you for the opportunity to testify.