

Children’s Alliance Concerns/Comments
based on the Subcommittee Substitute to be heard before
ARRS on January 8, 2024
Board of Social Work Regulations

201 KAR 23:170. Telehealth and social work practice

| | Comment |
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| Section 1 (3) | <p>The definition of “electronic social work service” is extremely broad and would regulate ALL electronic communication with the public, clients, and billing for professional services. While the Children’s Alliance believes this is an overreach and overregulation that is not necessary to protect the public, since electronic social work services is not healthcare, if this definition remains in the regulation, we ask that it only applies to <u>licensed and certified social workers</u>.</p> <p>(3) "Electronic social work service" means the use of Technology-Enabled Modalities and other electronic means <u>provided by licensed and certified social workers</u> to:</p> <ul style="list-style-type: none"> (a) Provide information to the public, when the activities are a professional service; (b) Deliver social work services to clients; (c) Communicate with clients; (d) Manage confidential information, personally identifiable information, protected health information, and financial and case records; (e) Deliver services through videoconferencing, electronic mail, text, chat, facsimile, virtual, [A]augmented, [A]extended, or [A]mixed reality, artificial intelligence, standard audio-only telephone, or digital and analog methods; (f) Store and access information about clients; (g) Provide synchronous telehealth or asynchronous telehealth; and (h) Arrange payment for professional services. |
| Section 1 (3a) | <p>If a social worker, as part of their job, is posting an article, like “How to Prevent Child Abuse” on their website they would need to implement Section 2, according to this regulation. The Children’s Alliance is not sure how the social worker can comply with implementation of this regulation, so we would ask that providing information to the public be removed from the definition of “electronic social worker service.”</p> |
| Section 1 (5) | <p>The definition of telehealth service seems to extend beyond the statutory definition of telehealth, by allowing “any service provided via electronic means” without any perimeters or guidelines to explain this expansion beyond the statutory definition.</p> <p>If the Social Work Board is authorizing clinical social work to be provided via all <u>electronic means</u> (which includes electronic mail, text, chat, facsimile, and artificial intelligence), per KRS 211.332 we would ask that language be included in this regulation that indicates these modalities are only to be</p> |

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| | used to enhance recipient health and well-being and when all clinical and technology guidelines for recipient safety and appropriate delivery of services. |
| Section 2 | <p>Some of the requirements in Section 2 should be required each time the service is provided (as a matter of safety) – especially for teletherapy, and some of the requirements should only be required upon initial contact or periodically thereafter.</p> <p>We recommend that requirements expected to be performed at each telehealth, teletherapy or electronic social work services encounter be separated from those requirements that could be performed one time or periodically for future encounters to occur via telehealth, teletherapy or electronic social work services.</p> |
| Section 2 (1) | The Children’s Alliance recommends a definition for “periodically.” |
| Section 2 (1) (c) and (d) | <p>The Children’s Alliance believes obtaining a telephone number is common/best practice for teletherapy services, however the regulation requires “an alternative means other than electronically.” The telephone is an electronic form of communication, so that would only leave the physical location that is collected in (1)(b) or mailing address. A licensed and certified social worker should obtain an alternative means of contacting the client if there is a disruption with the electronic means being used. This is a critical safety measure should the client be in crisis.</p> <p>The Children’s Alliance recommends striking “other than electronically.”</p> |
| Section 2 (f) | Requiring social workers to use encrypted text messages and emails for ALL electronic social services seems very overwhelming for licensed and certified social workers and their employers (foster care agencies, community mental health centers, nursing homes, schools, and the state) to implement. The Children’s Alliance would agree that if teletherapy is provided via text and emails, that encryption is necessary, however requiring social service communication, like general communication with a client to be provided via encrypted text messages and emails seems unnecessary and very costly. |
| Section 2 (2) | The ability to waive informed consent seems to conflict with KRS 335.158 where no exception is mentioned. |