



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

Department of Professional Licensing
Kentucky Board of Licensed Professional
Counselors
P.O. Box 1360
Frankfort, KY 40602
Phone: (502) 782-8803
Fax: (502) 564-4818

Ray A. Perry
SECRETARY

March 5, 2026

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Ange Darnell, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission 083
Capitol Annex
Frankfort, KY 40601

RE: Suggested Substitutes
201 KAR 45:110, 45:150, 45:170, 45:180, and 45:190

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 45:110, 45:150, 45:170, 45:180, and 45:190, the Kentucky Board of Licensed Diabetes Educators proposes the attached suggested substitutes to 201 KAR 45:110, 45:150, 45:170, 45:180, and 45:190.

Sincerely,

Sara Boswell Janes

Sara Boswell Janes
Staff Attorney III
Public Protection Cabinet
Department of Professional Licensing
as Board Counsel on behalf of the Kentucky
Board of Licensed Professional Counselors
500 Mero Street
Frankfort, Kentucky 40601

SUGGESTED AMENDMENT

**BOARDS AND COMMISSIONS
BOARD OF LICENSED DIABETES EDUCATORS**

201 KAR 45:110. Supervision and work experience.

RELATES TO: KRS 309.331

STATUTORY AUTHORITY: KRS 309.331(1), 309.334(2)(a)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.325 to 309.339. KRS 309.334(2)(a) requires the board to promulgate administrative regulations to establish the duties of the apprentice diabetes educator supervisor. This administrative regulation establishes the amount of work experience required for licensure and the qualifications to be a supervisor.

Section 1. Accumulation of Work Experience. An apprentice diabetes educator shall accumulate at least 750 hours of supervised work experience within five (5) years from the date of application for licensure, of which 250 hours shall have been obtained within the last twelve (12) months preceding licensure application.

Section 2. Supervision.

(1) An apprentice diabetes educator shall not practice diabetes education until a supervisor has been approved by the board **in accordance with this administrative regulation.**

(2) The board-approved supervisor shall assume responsibility for and supervise the apprentice diabetes educator's practice as follows:

~~(1)~~

(a) The supervisor shall complete a post-learning assessment of the apprentice using the, ~~review the apprentice diabetes educator's provision of diabetes self-management education.~~ ~~Diabetes Education Apprentice Assessment~~, form DPL-BDE-02, which shall accompany an application for full licensure.

(b) The apprentice diabetes educator shall meet ~~interact~~ with the supervisor no less than two (2) hours quarterly, one (1) hour of which shall be face-to-face while being physically present in the same room, or may be virtual utilizing an online platform with both audio and visual connectivity during the entire supervision meeting.

(c) The supervision process shall focus on:

1. Identifying strengths, developmental needs, and providing direct feedback to foster the professional development of the apprentice diabetes educator;
2. Identifying and providing resources to facilitate learning and professional growth;
3. Developing awareness of professional and ethical responsibilities in the practice of diabetes education; and
4. Ensuring the safe and effective delivery of diabetes education services and fostering the professional competence and development of the apprentice diabetes educator.

(d) The supervisor shall complete a Supervised Work Experience Report, Form DPL-BDE-03, which shall accompany an application for full licensure.

~~(e)~~

1. Prior to the apprentice applying for full licensure, the supervisor shall:~~[licensure, the supervisor shall observe the apprentice providing diabetes education to a patient while the supervisor is physically present in the same room on at least two (2) separate occasions, for a combined total of at least four (4) hours, two (2) hours of which shall have occurred within the last twelve (12) months preceding licensure application.]~~

a. Observe the apprentice providing diabetes education to a patient while the supervisor is physically present in the same room with the apprentice and the patient, or through telehealth as provided in **201 KAR 45:190**[~~201 KAR 45~~];

b. Observation of the apprentice and the patient shall occur on at least two (2) separate occasions, for a combined total of at least four (4) hours; and

c. Two (2) hours of said observation shall occur within the twelve (12) months preceding full licensure application.

2. The apprentice shall be responsible for obtaining any permissions, releases, or waivers required by law in order for the supervisor to observe the apprentice providing diabetes education to a patient.

~~(3)~~(2) The hours of work experience and verification by the apprentice diabetes educator and supervisor shall be documented on the Supervised Work Experience Report, DPL-BDE-03.~~[Application for Licensure, Form DE-01.]~~

~~(4)~~(3) A supervisor shall not serve as a supervisor for more than four (4) apprentice diabetes educators at a time.

~~(4)~~ [The supervision process shall focus on:]

~~[(a)] [Identifying strengths, developmental needs, and providing direct feedback to foster the professional development of the apprentice diabetes educator;]~~

~~[(b)] [Identifying and providing resources to facilitate learning and professional growth;]~~

~~[(c)] [Developing awareness of professional and ethical responsibilities in the practice of diabetes education; and]~~

~~[(d)] [Ensuring the safe and effective delivery of diabetes education services and fostering the professional competence and development of the apprentice diabetes educator.]~~

Section 3. Documentation Requirements. The documentation required ~~for~~by the Supervised Work Experience Report, DPL-BDE-03~~[Form DE-05]~~ shall be maintained by the apprentice and the supervisor for a period of five (5) years and provided to the board upon request~~[at the request of the board]~~.

Section 4. Incorporation by Reference.

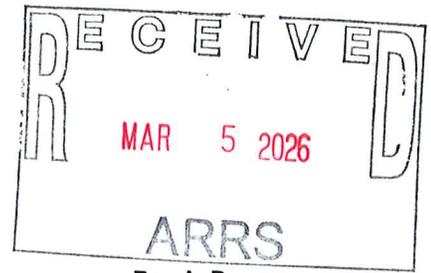
(1) The following material is incorporated by reference:

(a) "Diabetes Educator Apprentice Assessment", DPL-BDE-02, July 2025; and~~["Application for Licensure", Form DE-01, 09/2017; and]~~

(b) "Supervised Work Experience Report", DPL-BDE-03, July 2025.~~[Form DE-05, 09/2016.]~~

(2) This material may be located on the board website at bde.ky.gov or inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Diabetes Educators, Department of Professional Licensing, 500 Mero Street, ~~[25C32,]~~ Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

CONTACT PERSON: Name: Sara Boswell Janes, Title: Staff Attorney III, Agency: Department of Professional Licensing, Office of Legal Services. Address: 500 Mero Street, 2 NC WK#2, Frankfort, Kentucky 40602. Phone Number: (502) 782-2709 (office), Fax: (502) 564-4818, Email: Sara.Janes@ky.gov Link to PPC public comment portal: https://ppc.ky.gov/reg_comment.aspx.



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SUGGESTED SUBSTITUTE

**BOARDS AND COMMISSIONS
BOARD OF LICENSED DIABETES EDUCATORS**

201 KAR 45:150. Complaint procedures.

RELATES TO: KRS 309.335

STATUTORY AUTHORITY: KRS 309.331, 309.335

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331 requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.330 to 309.339. This administrative regulation provides for the complaint procedures to be used by the board in the enforcement of those statutes and administrative regulations promulgated thereunder.

Section 1. Definitions.

- (1) "Board" is defined by KRS 309.325(1).
- (2) "Charge" means a specific allegation contained in any document issued by the board alleging a violation of a specified provision of KRS 309.325 through 309.339.
- (3) "Complaint" means a written complaint alleging a violation of KRS 309.325 through 309.339.
- (4) "Complainant" means a person who files a complaint pursuant to this administrative regulation.
- (5) "Formal complaint" means a formal administrative pleading authorized by the board that establishes a charge against a licensee or applicant and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B.

Section 2. Complaints. A complaint:

- (1) Shall be submitted by completing ***an Information and Complaint Form with Authorization for the Use and Disclosure of Health Information, DPL-BDE-08[a "Complaint Form", Form DPL-BDE-07, July 2025]***~~[DE-06]~~ and signed by the person offering the complaint; or
- (2) May be filed by the board based upon information in its possession.

Section 3. Receipt of Complaints.

- (1) A copy of the complaint shall be mailed to the individual named in the complaint along with a request for that individual's response to the complaint.
- (2) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response to the board.
- (3) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant.
- (4) The complainant shall have seven (7) days from receipt to submit a written reply to the response to the board.

Section 4. Initial Review.

- (1)
 - (a) After the receipt of the complaint and the expiration of the period for the individual response, the board shall consider the individual's response, complainant's reply to the response, and any relevant material available.

- (b) The names of the individuals and other identifying information shall be redacted to provide anonymity.
- (c) The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.
- (2) If the board determines before formal investigation that a complaint is without merit, it shall:
 - (a) Dismiss the complaint; and
 - (b) Notify the complainant and respondent of the board's decision.
- (3) If the board determines that a complaint warrants a formal investigation, it shall conduct a formal investigation into the matter.

Section 5. Results of Formal Investigation; Board Decision on Hearing.

- (1) Upon completion of the formal investigation, the board shall determine whether there has been a prima facie violation of KRS 309.325 to 309.339 or the administrative regulations promulgated thereunder. If so, a formal complaint shall be filed.
- (2) If the board determines that a complaint does not warrant the issuance of a formal complaint, it shall:
 - (a) Dismiss the complaint; and
 - (b) Notify the complainant and respondent of the board's decision.
- (3) If the board determines that a violation has occurred but is not serious, the board shall issue a written admonishment to the license holder.
 - (a) A copy of the written admonishment shall be placed in the permanent file of the license holder.
 - (b) The license holder shall have the right to file a response in writing to the admonishment within thirty (30) days of its receipt and may have it placed in the license holder's permanent file.
 - (c) Alternatively, the license holder may file a request for a hearing with the board within thirty (30) days of the admonishment.
 - (d) Upon receipt of the request, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.
- (4)
 - (a) If the board determines that a complaint warrants the issuance of a formal complaint against the license holder, the board or its counsel shall prepare a formal complaint that states clearly the charge or charges to be considered at the hearing.
 - (b)
 - 1. The formal complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B.
 - 2. The formal complaint shall be processed in accordance with KRS Chapter 13B.

Section 6. Settlement by Informal Proceedings.

- (1) The board, through counsel, may enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.
- (2) An agreed order or settlement reached through this process shall be approved by the board and signed by the chair and the individual who is the subject of the complaint.
- (3) The board may employ mediation as a method of resolving the matter informally.

Section 7. Incorporation by Reference.

- (1) The Information & Complaint Form With Authorization for the Use and Disclosure of Health Information, DPL-BDE-08, July 2025, ["Complaint Form", Form DE-06, 06/2013,] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Diabetes Educators, Department of Professional Licensing, 500 Mero Street, [2SC32,] Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30[5] p.m.

CONTACT PERSON: Name: Sara Boswell Janes, Title: Staff Attorney III, Agency: Department of Professional Licensing, Office of Legal Services. Address: 500 Mero Street, 2 NC WK#2, Frankfort, Kentucky 40602, Phone Number: (502) 782-2709 (office), Fax: (502) 564-4818, Email: Sara.Janes@ky.gov, Link to PPC public comment portal: https://ppc.ky.gov/reg_comment.aspx



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RE: Suggested Substitutes
201 KAR 45:110, 45:150, 45:170, 45:180, and 45:190

Dear Co-Chairs West and Lewis:

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SUGGESTED SUBSTITUTE

**BOARDS AND COMMISSIONS
BOARD OF LICENSED DIABETES EDUCATORS**

201 KAR 45:170. Application procedures.

RELATES TO: KRS 309.331, 309.334, 309.335, 309.336, 335B.030

STATUTORY AUTHORITY: KRS 309.331(1), 309.334(2)(c), 309.335(1)(b)1., 309.336(2)(b)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.325 to 309.339. KRS 309.335(1)(b)1. requires an applicant for licensure as a licensed diabetes educator to file an application as provided by the board, to show successful completion of a course or program as determined by the board, and to demonstrate experience in the care of people with diabetes under supervision that meets requirements specified in administrative regulations promulgated by the board. KRS 309.334(2)(c) requires the board to establish additional requirements to apply for an apprentice diabetes educator permit, and KRS 309.336(2)(b) requires the board to establish additional requirements to apply for licensure as a master licensed diabetes educator. This administrative regulation establishes application procedures for licensed diabetes educators, master licensed diabetes educators, and apprentice diabetes educators.

Section 1. Licensed Diabetes Educator Application Procedures.

~~[(1)] An applicant for licensure as a licensed diabetes educator [pursuant to KRS 309.335(1)(b)1.] shall submit the following to the board:~~

~~(1)[(a)] A completed Application for Licensure, Form **DPL-BDE-01**~~[**BPL-LDE-01, July 2025**];~~~~[DE-01, incorporated by reference in 201 KAR 45:110;]~~~~

~~(2) A completed Diabetes Education Apprentice Assessment (Post-Learning), Form DPL-BDE-02, incorporated by reference in 201 KAR 45:110;~~

~~(3) The Supervised Work Experience Report, Form DPL-BDE-03, incorporated by reference in 201 KAR 45:110, [including documentation] verifying completion of 750 hours of work experience as an apprentice diabetes educator under a supervisor as provided in 201 KAR 45:110; [and]~~

~~[(b)] [Payment of the licensure fee as established in 201 KAR 45:100.]~~

~~[(2)] [An applicant for licensure as a licensed diabetes educator pursuant to KRS 309.335(1)(b)2. shall submit to the board:]~~

~~(4)~~

~~(a) Evidence showing successful completion of the credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators or;~~~~[and]~~

~~[(b)] [Payment of the licensure fee as established in 201 KAR 45:100.]~~

~~[(3)] [An applicant for licensure as a licensed diabetes educator pursuant to KRS 309.335(1)(b)3. shall submit to the board:]~~

~~[(a)] Evidence showing the successful completion of the Association of Diabetes Care and Education Specialists ("ADCES") Core Concepts Course, either online or in-person, or an equivalent credentialing program as approved by the board pursuant to 201 KAR 45:180; and~~

~~[(b)] Payment of the licensure fee as established in 201 KAR 45:100.~~

Section 2. Master Licensed Diabetes Educator Application Procedures. An applicant for licensure as a master licensed diabetes educator shall submit to the board:

- (1) A completed Application for Licensure, Form DPL-BDE-01~~[-, incorporated by reference in 201 KAR 45:110]~~[DE-01];
- (2) Proof of completion of the credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators in Board Certified Advanced Diabetes Management or as a Certified Diabetes Educator; and
- (3) Payment of the licensure fee as established in 201 KAR 45:100.

Section 3. Apprentice Diabetes Educator Application Procedures. An applicant for an apprentice diabetes educator permit shall submit to the board:

- (1) A completed Application for Apprentice Diabetes Educator Permit, Form DPL-BDE-04[DE-03];
- (2) Payment of the licensure fee as established in 201 KAR 45:100; and
- (3) A completed Diabetes **Educator**[**Education**] Apprentice Assessment[-(**Pre-Learning**)], Form DPL-BDE-02, incorporated by reference in 201 KAR 45:110;
- (4) Proof of an active license or certification in good standing as at least one (1) of the following:
 - (a) American College of Sports Medicine Certified Clinical Exercise Specialist or Registered Clinical Exercise Physiologist;
 - (b)
 1. Certified social worker or licensed clinical social worker pursuant to KRS Chapter 335; and
 2. The applicant shall also have at least two (2) years of experience in a health profession;
 - (c) Dietitian pursuant to KRS Chapter 310;
 - (d) Health educator holding active certification as a master certified health education specialist with the National Commission on Health Education Credentialing;
 - (e) Nutritionist pursuant to KRS Chapter 310;
 - (f) Occupational therapist pursuant to KRS Chapter 319A;
 - (g) Optometrist pursuant to KRS Chapter 320;
 - (h) Osteopath pursuant to KRS Chapter 311;
 - (i) Pharmacist pursuant to KRS Chapter 315;
 - (j) Physical therapist pursuant to KRS Chapter 327;
 - (k) Physician pursuant to KRS Chapter 311;
 - (l) Physician assistant pursuant to KRS Chapter 311;
 - (m) Podiatrist pursuant to KRS Chapter 311;
 - (n) Psychologist pursuant to KRS Chapter 319;
 - (o) Registered nurse pursuant to KRS Chapter 314; or
 - (p) A license or certification from a state or the District of Columbia equivalent to one (1) of the licenses or certifications listed in this subsection.
- (5)[(4)] The board shall not consider an applicant for an apprentice diabetes educator permit who does not hold an active license or certification as listed in subsection (3) of this section.
- (6)[(5)] An applicant for an apprentice diabetes educator permit shall include the Supervised Work Experience Report, Form DPL-BDE-03[DE-05], which lists the name of the supervisor, the employer, and the type of setting the work experience will be gained, incorporated by reference in 201 KAR 45:110.

Section 4. Applications involving prior convictions of a crime.

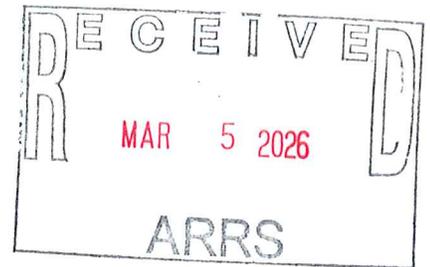
- (1) If the board considers denying an application based solely on an applicant's prior conviction of a crime, the board, pursuant to KRS 335B.030(2), shall:

- (a) Provide the applicant with written notice that the board has determined that the prior conviction may disqualify the applicant for a license or permit, and demonstrates the connection between the prior conviction and the license or permit being sought; and
 - (b) Afford the applicant an opportunity to be personally heard before the board prior to the board making a decision on whether to disqualify the applicant.
- (2) If the board resolves to deny an application based solely on an applicant's prior conviction of a crime after complying with the procedures in Section 4(1) of this administrative regulation, the board, pursuant to KRS 335B.030(2), shall notify the applicant in writing of:
- (a) The grounds and reasons for the denial or disqualification;
 - (b) That the applicant has a right to a hearing conducted in accordance with KRS Chapter 13B, if a written request for a hearing is made within twenty (20) [~~ten (10)~~] days after service of notice;
 - (c) The earliest date the applicant may reapply for a license or permit; and
 - (d) That evidence of rehabilitation may be considered upon reapplication.

Section 5. Incorporation by Reference. The following material is incorporated by reference:

- (1) "Application for Licensure, Form **DPL-BDE-01** [**BPL-LDE-01**], July 2025, is incorporated by reference;
- (2) "Application for Apprentice Diabetes Educator Permit", Form DPL-BDE-04, July 2025 [~~DE-03, 08/2014~~], is incorporated by reference.
- (3) [(2)] This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Diabetes Educators, Department of Professional Licensing, 500 Mero Street, [~~2SC32,~~] Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 [~~5~~] p.m.

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SUGGESTED SUBSTITUTE

**BOARDS AND COMMISSIONS
BOARD OF LICENSED DIABETES EDUCATORS**

201 KAR 45:180. Diabetes Education Courses.

RELATES TO: KRS 309.331

STATUTORY AUTHORITY: KRS 309.331(1), 309.335

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331(1) requires the board to promulgate administrative regulations for the administration and enforcement of KRS 309.325 to 309.339. KRS 309.335(1)(b)1. requires the board to promulgate administrative regulations specifying requirements for the board-approved course in diabetes education. This administrative regulation establishes the requirements and procedures for the board-approved course in diabetes education.

Section 1. The ***Association of Diabetes Care and Education Specialists (ADCES)***~~*American Association of Diabetes Educators*~~ Core Concepts Course shall constitute a board-approved course in diabetes education.

Section 2. A person may petition the board to approve another course in diabetes education that is substantially equivalent to the American Association of Diabetes Educators Core Concepts Course by submitting to the board a completed Application for KBLDE Board Approved Course, Form ***DPL-BDE-09***~~*DE-07*~~. The application form shall be accompanied by:

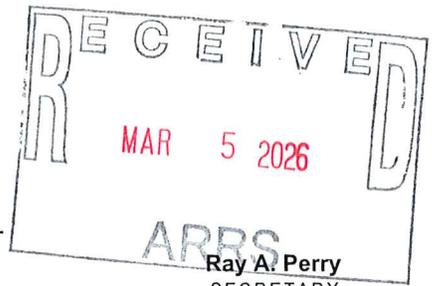
- (1) A thorough course description;
- (2) A statement of the learning objectives;
- (3) A statement of the target audience;
- (4) The content focus of the course;
- (5) A detailed agenda for the activity;
- (6) The number of contact hours requested;
- (7) The qualifications required for presenters; and
- (8) A sample of the certificate of completion awarded to successful attendees.

Section 3. Incorporation by Reference.

(1) "Application for KBLDE Board Approved Course", Form ***DPL-BDE-09***, July 2025~~*DE-07, 08/2014*~~ is incorporated by reference.

(2) This material may be located on the board website at bde.ky.gov or inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Diabetes Educators, Department of Professional Licensing, 500 Mero Street, ~~[25C32,]~~ Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30~~[5]~~ p.m.

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as Board Counsel on behalf of the Kentucky
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Frankfort, Kentucky 40601

SUGGESTED AMENDMENT

201 KAR 45:190. Telehealth diabetes education.

RELATES TO: KRS ~~309.331, 211.332, 211.334, 211.335, 211.336, 211.338~~~~[309.331]~~

STATUTORY AUTHORITY: KRS 309.331 ~~[, 211.332, 211.334, 211.335, 211.336, 211.338.]~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331 authorizes the board to promulgate administrative regulations to carry out and enforce KRS 309.325 to 309.339. KRS 211.332 authorizes the use of telehealth in the Commonwealth to ensure a patient's informed consent and to maintain confidentiality. This administrative regulation protects the health and safety of the citizens of Kentucky and establishes procedures for preventing abuse and fraud through the use of telehealth, prevents fee-splitting through the use of telehealth, and utilizes telehealth in the provision of diabetes educator services and in the provision of continuing education.

Section 1. Definitions.

- (1) "Client" means the person receiving the services of the licensed diabetes educator or the diabetes educator apprentice.
- (2) "Credential holder" is defined as licensed diabetes educator or the diabetes educator apprentice.
- (3) "Telehealth" is defined by KRS 211.332(5). Telehealth shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call and shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.
- (4) "Telehealth diabetes education" means the practice of diabetes education, as defined by KRS 309.325(2), between the credential holder and the patient that is provided using:
 - (a) Electronic communication technology; or
 - (b) Two (2) way, interactive, simultaneous audio and video.
- (5) "Telehealth service" means any service that is provided via telehealth and is one (1) of the following:
 - (a) Event;
 - (b) Encounter;
 - (c) Consultation;
 - (d) Visit;
 - (e) Remote patient monitoring;
 - (f) Referral; or
 - (g) Treatment.

Section 2. Patient Requirements. A credential holder using telehealth to deliver diabetes education services or who practices diabetes education shall, upon initial contact with the patient:

- (1) Make reasonable attempts to verify the identity of the patient;
- (2) Obtain alternative means of contacting the patient other than electronically, which may include obtaining the patient's phone number or email address;
- (3) Provide to the patient alternative means of contacting the credential holder other than electronically, which may include providing the credential holder's phone number or email address;
- (4) Document if the patient has the necessary knowledge and skills to benefit from the type of diabetes education provided by the credential holder;

- (5) Use secure communications with the patient, including encrypted text messages via e-mail or secure Web sites, and not use personal identifying information in non-secure communications;
- (6) Inform the patient in writing about:
- (a) The limitations of using technology in the provision of diabetes education;
 - (b) Potential risks to confidentiality of information due to technology in the provision of diabetes education;
 - (c) Potential risks of disruption in the use of diabetes education;
 - (d) When and how the credential holder will respond to routine electronic messages;
 - (e) The circumstances in which the credential holder will use alternative communications for emergency purposes;
 - (f) Who else may have access to patient communications with the credential holder;
 - (g) How communications can be directed to a specific credential holder; and
 - (h) How the credential holder stores electronic communications from the patient.
- (7) Within forty-eight (48) hours of the telehealth service, the credential holder shall document within the patient's medical record that a service was provided by telehealth, and follow all documentation requirements of the practice.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records.

- (1) A credential holder using telehealth to deliver diabetes education services or who practices telehealth diabetes education shall:
- (a) Limit the practice of telehealth diabetes education to the area of competence in which proficiency has been gained through education, training, and experience;
 - (b) Maintain current competency in the practice of telehealth diabetes education through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;
 - (c) Follow all the record-keeping requirements;
 - (d) Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data; and
 - (e) Document the patient's written informed consent to the services being provided and the provision of those services via telehealth, including that the patient or client:
 - 1.** Has the right to refuse telehealth consultation or services;
 - 2. [;]** Has been informed of alternatives to telehealth services;
 - 3. [~~, that the patient or client~~]** Shall be entitled to receive information from the provider regarding the services rendered;
 - 4. [~~, that the patient or client's~~]** Information shall be protected by applicable federal and state law regarding patient confidentiality;
 - 5. [~~, that the patient or client~~]** Shall have the right to know the identity of all persons present at any site involved in the telehealth services, and to exclude any such person;**[;]** and
 - 6. [~~, that the patient or client~~]** Shall have the right to be advised, and to object to, any recording of the telehealth consultation or services.
- (2) The requirement of a written informed consent shall not apply to an emergency situation if the patient is unable to provide informed consent and the patient's legally authorized representative is not available.

Section 4. Compliance with Federal, State, and Local Law. A credential holder using telehealth to deliver diabetes education services shall:

- (1) Comply with the state law where the credential holder is credentialed and state law regarding the practice of diabetes education where the patient is located at the time services are rendered;
- (2) **Comply with** Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a patient with disabilities; and
- (3) Maintain patient privacy and security in accordance with 900 KAR 12:005, Section 2(2).

Section 5. Representation of Services and Code of Conduct. A credential holder using telehealth to deliver diabetes education services:

- (1) Shall not, by or on behalf of the credential holder, engage in false, misleading, or deceptive advertising of telehealth diabetes services; and
- (2) Shall comply with the code of ethics established by 201 KAR 45:140.
- (3) Shall not allow fee-splitting through the use of telehealth diabetes education services.

Section 6. A person holding a license as a diabetes educator or a permit as a diabetes educator apprentice who provides telehealth services to a person physically located in Kentucky shall be subject to the laws and administrative regulations governing diabetes education in Kentucky.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.