

BOARDS AND COMMISSIONS

Board of Nursing

(Amendment)

201 KAR 20:520. Telehealth.

RELATES TO: KRS 314.155

STATUTORY AUTHORITY: KRS 314.131, 314.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 314. KRS 314.155(2) requires the board to promulgate administrative regulations regarding telehealth, including preventing abuse and fraud through the use of telehealth services, preventing fee-splitting through the use of telehealth services, and utilizing telehealth in the provision of nursing services and in the provision of continuing education. This administrative regulation establishes the requirements governing the use of telehealth.

Section 1. Definitions.

- (1) "Board" is defined by KRS 314.011(1).
- (2) "Nurse" means a licensed practical nurse as defined by KRS 314.011(9), a registered nurse as defined by KRS 314.011(5), or an advanced practice registered nurse as defined by KRS 314.011(7).
- (3) "Telehealth" is defined by KRS 314.155(3).

Section 2. Jurisdictional Considerations. A nurse providing nursing services via telehealth to a person physically located in Kentucky shall be licensed by the board or hold a privilege to practice pursuant to KRS 314.475.

Section 3. Representation of Services and Code of Conduct. A nurse using telehealth to deliver services shall not:

- (1) Engage in false, misleading, or deceptive advertising; or
- (2) Split fees.

Section 4. Initial Communication Requirements. A nurse using telehealth to deliver nursing services shall, upon initial contact with the patient:

- (1) Make attempts to verify the identity of the patient;
- (2) Obtain alternative means of contacting the patient other than electronically such as by use of a telephone number or mailing address;
- (3) Provide to the patient alternative means of contacting the nurse other than electronically such as by use of a telephone number or mailing address; and
- (4) Provide contact methods of alternative communication the nurse shall use for emergency purposes such as an emergency on call telephone number.

Section 5. Limits on Practice, Informed Consent, Maintenance, and Retention of Records. A nurse using telehealth to deliver nursing services shall:

- (1) Be responsible for determining and documenting that telehealth is appropriate for the patient;
- (2) Document which services were provided by telehealth;
- (3) Use secure communications with each patient, including encrypted text messages, via e-mail or secure Web sites, and not use personal identifying information in non-secure communications;
- (4) Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the nurse disposes of electronic equipment and data; and
- (5) Inform the patient and document acknowledgement of the risk and limitations of:

- (a) The use of telehealth in the provision of nursing;
- (b) The potential breach of confidentiality, or inadvertent access, of protected health information using telehealth in the provision of nursing;
- (c) The potential disruption of electronic communication in the use of telehealth;
- (d) When and how the nurse will respond to routine electronic messages;
- (e) The circumstances in which the nurse will use alternative communications for emergency purposes;
- (f) Others who may have access to patient communications with the nurse;
- (g) How communications shall be directed to a specific nurse;
- (h) How the nurse stores electronic communications from the patient; and
- (i) Whether the nurse or patient may elect to discontinue the provision of services through telehealth.

Section 6. Utilization of Telehealth in Provision of Continuing Education. Providers approved pursuant to 201 KAR 20:220 may utilize telehealth in the provision of continuing education courses.

(42 Ky.R. 2684; 43 Ky.R. 19; eff. 7-20-2016; TAm eff. 7-18-2022; Cert. eff. 7-17-2023.)