PUBLIC PROTECTION CABINET
Board of Licensure for Occupational Therapy
(Amended at ARRS Committee)

201 KAR 28:235. Telehealth occupational therapy services.

RELATES TO: KRS 319A.080, 319A.300, 211.332, 211.334, 211.335, 211.336, 211.338, 29 U.S.C. 794(d)

STATUTORY AUTHORITY: KRS 319A.070, 319A.300

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.300(2) requires the board to promulgate an administrative regulation to implement telehealth in occupational therapy, including to establish procedures to prevent abuse and fraud through the use of telehealth, prevent fee-splitting through the use of telehealth, and utilize telehealth in the provision of occupational therapy services and in the provision of continuing education. Additionally, KRS 319A.300(1) requires an occupational therapist utilizing telehealth to ensure a client's informed consent and to maintain confidentiality. This administrative regulation establishes the requirements for telehealth for occupational therapy services.

Section 1. Definitions.

(1) "Client" means the person receiving the services of the occupational therapist.

(2) "Credential holder" means an individual licensed by the Kentucky Board of Licensure for Occupational Therapy pursuant to KRS Chapter 319A.

(3) "Telehealth" is defined by KRS 211.332(5).

(4) "Telehealth occupational therapy" means the practice of occupational therapy as defined by KRS 319A.010(2) and KRS 211.332(5).

Section 2. Client Requirements.

(1) A credential holder using telehealth to deliver occupational therapy services shall, upon initial contact with the client:

(a) Make attempts to verify the identity of the client;

(b) Obtain alternative means of contacting the client other than through telehealth means, such as by the use of a telephone number or email address;

(c) Provide to the client alternative means of contacting the credential holder other than through telehealth means,such as by the use of a telephone number or emailaddress;

(d) Provide contact methods of alternative communication the credential holder shall use for emergency purposes, such as an emergency on call telephone number;

(e) Document if the client has the necessary knowledge and skills to benefit from the type of telehealth provided by the credential holder;

(f)

1. Use secure communications with clients, including encrypted text messages via e-mail or secure websites; and

2. Not use personal identifying information in non-secure communications;

(g) In accordance with KRS 319A.300(1)(a) and 900 KAR 12:005, Section 2(3), obtain the informed consent of the client; and

(h) Inform the client in writing about:

1. The limitations of using technology in the provision of telehealth occupational therapy services;

2. Potential risks to confidentiality of information, or inadvertent access of protected health information, due to technology in the provision of telehealth occupational therapy services;

3. Potential risks of disruption in the use of telehealth occupational therapy services;

4. When and how the credential holder will respond to routine electronic messages;

5. In what circumstances the credential holder will use alternative communications for emergency purposes;
6. Who else may have access to client communications with the credential holder;
7. How communications can be directed to a specific credential holder;
8. How the credential holder stores electronic communications from the client; and
9. How the credential holder may elect to discontinue the provision of services through telehealth.

(2) The credential holder shall timely document within the client's 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 occupational therapy services or who practices telehealth occupational therapy shall:

(a) Limit the practice of telehealth occupational therapy 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 occupational therapy through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;

(c) Document the client's presenting problem, purpose, or diagnosis;

(d) Follow the record-keeping requirements of 201 KAR 28:140;

(e) Ensure that confidential communications obtained and stored electronically shall not be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data; and

(f) Document the client's written informed consent to the services being provided and the provision of those services via telehealth, including that:

1. The patient has the right to refuse telehealth consultation or services and has been informed of alternatives to telehealth services;
2. The client shall be entitled to receive information from the provider regarding the services rendered;
3. The client's information shall be protected by applicable federal and state law regarding client confidentiality;
4. The 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 person present; and
5. The client shall have the right to be advised, and to object to, any recording of the telehealth consultation or services.

(2) If written informed consent cannot be obtained due to an emergency situation, informed consent shall be obtained verbally and documented in the client's record.

Section 4. Compliance with Federal, State, and Local Law. A credential holder using telehealth to deliver occupational therapy services or who practices telehealth occupational therapy shall:

(1) Maintain patient privacy and security in accordance with 900 KAR 12:005, Section 2(2).

(2) Comply with Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities.

(3) Be licensed or otherwise authorized by law to practice occupational therapy where the client is physically located.

(4) Be licensed or otherwise authorized by law to practice occupational therapy where the credential holder is physically located.

Section 5. Representation of Services and Code of Conduct.A credential holder using telehealth to deliver occupational therapy services or who practices telehealth occupational therapy shall:

(1) Not engage in false, misleading, or deceptive advertising of telehealth occupational therapy by or on behalf of the credential holder;

(2) Comply with the code of ethics and unprofessional conduct established in 201 KAR 28:140; and

(3) Not allow fee-splitting through the use of telehealth occupational therapy services.

(201 KAR 028:235. 44 Ky.R. 164, 1219; eff. 1-5-2018; Cert to Am, filing deadline 5-22-2026; 52 Ky.R. 2126, 493; eff. 9-15-2026.)

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