BOARDS AND COMMISSIONS

Board of Licensure And Certification For Dietitians And Nutritionists

(Amended After Comments)

201 KAR 33:071. Telehealth and telepractice.

RELATES TO: KRS 310.070, 310.200, KRS 211.332, 211.334, 211.336, 211.338

STATUTORY AUTHORITY: KRS 310.200(1), (2)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.200 requires the Board of Licensure and Certification for Dietitians and Nutritionists to adopt administrative regulations to further the objectives stated therein. This administrative regulation establishes procedures necessary 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 dietitian and nutrition services.

Section 1. Definitions.

(1) "Client" means the person receiving the services of the dietitian or nutritionist.

(2) ~~[**"Licensed healthcare professional" means a medical doctor, registered nurse, practical nurse, nurse practitioner, advanced practice registered nurse, physician's assistant, chiropractor, certified diabetes educator, pharmacist, speech-language pathologist, registered dietitian, certified nutritionist, podiatrist, audiologist, or psychologist licensed in the jurisdiction where he or she is physically located.**]~~

~~[**(3)**]~~ "Practitioner" means a licensed dietitian or certified nutritionist.

(3) ~~[**(4)**]~~ "Telehealth" is defined by KRS 310.200(3) and KRS 211.332(5).

(4) ~~[**(5)**]~~ "Telepractice" means the practice of dietetics or nutrition as defined by KRS 310.005(2) and provided by using communication technology that is two (2) way, interactive, simultaneous audio and video, or audio-only encounters.

Section 2. Client Requirements. ~~[**A licensed health care professional may represent the practitioner at the initial meeting.**]~~A practitioner who uses telehealth to deliver dietetics or nutrition services shall, at the initial meeting with the client:

(1) Make reasonable attempts to verify the identity of the client;

(2) Obtain alternative means of contacting the client other than electronically such as by the use of a telephone number or mailing address;

(3) Provide to the client alternative means of contacting the licensee other than electronically such as by the use of a telephone number or mailing address;

(4) Provide contact methods of alternative communication the practitioner shall use for emergency purposes such as an emergency on call telephone number;

(5) Document if the client has the necessary knowledge and skills to benefit from the type of telepractice provided by the licensee; and

(6) Inform the client in writing and document acknowledgement of the risk and limitations of:

(a) The use of technology in the provision of telepractice;

(b) The potential breach of confidentiality of information, or inadvertent access of protected health information, due to technology in the provision of telepractice;

(c) The potential disruption of technology in the use of telepractice;

(d) When and how the practitioner will respond to routine electronic messages;

(e) In what circumstances the practitioner will use alternative communications for emergency purposes;

(f) Who else may have access to client communications with the practitioner;

(g) How communications shall be directed to a specific licensee;

(h) How the practitioner stores electronic communications from the client; and

(i) That the practitioner **or the client** may elect to discontinue the provision of services through telehealth.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records. A practitioner using telehealth to deliver services or who telepractices shall:

(1) Limit the telepractice to the area of competence in which proficiency has been gained through education, training, and experience;

(2) Maintain current competency in telepractice through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;

(3) Document the client's presenting problem, purpose, or diagnosis, and include which services were provided by telepractice;

(4) Use methods for protecting health information, which shall include authentication and encryption technology as required by KRS 211.332(5)(c); and

(5) Ensure that confidential communications obtained and stored electronically shall not be recovered and accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

Section 4. Compliance with Federal, State, and Local Law.

(1) A practitioner using telehealth to deliver dietetics or nutrition services shall comply with Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with a disability.

(2) A person providing dietetic or nutrition services for which an exception to licensure does not apply or who represents himself or herself as a dietitian, licensed dietitian, or certified nutritionist pursuant to KRS 310.070 shall be licensed by the board if:

(a) Services are offered via telehealth; and

(b) These services are provided or the representation is made to a **client who~~[person when he or she]~~** is physically located in Kentucky.

(3) A person providing dietetic or nutrition services for which an exception to licensure does not apply or who represents himself or herself as a dietitian, licensed dietitian, or certified nutritionist pursuant to KRS 310.070 shall be licensed by the board if:

(a) Services are offered via telehealth; and

(b) These services are provided or the representation is made from a physical location in Kentucky. This person may be subject to licensure requirements in other states where the services are received by the client.

(4) Comply with the state law where the **Kentucky credential holder~~[practitioner]~~** initiates services.

Section 5. Representation of Services and Code of Conduct. A licensee using telehealth to deliver services or who telepractices shall not:

(1) Engage in false, misleading, or deceptive advertising of telepractice; or

(2) Split fees.

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.

201 KAR 33:071
ERIN ELIASSEN, Chair

APPROVED BY AGENCY: November 10, 2026
FILED WITH LRC: November 12, 2026 at 2:00 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

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Subject Headings:Dieticians and Nutritionists, Occupations and Professions, Boards and Commissions,

(1) Provide a brief summary of:

(a) What this administrative regulation does:
The regulation establishes procedures for dietitians and nutritionists practicing telehealth.

(b) The necessity of this administrative regulation:
This regulation is necessary to establish procedures for dietitians and nutritionists practicing telehealth, which is required by KRS 310.200.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
The Board is given the authority to establish administrative regulations for the practice of dietitians and nutritionists in KRS 310.041, and specifically for telehealth in KRS 310.200.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation establishes procedures for dietitians and nutritionists practicing telehealth.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This regulation replaces an expired regulation which was adopted in its entirety as this new regulation. Amendments were made after comments to strike the definition of "licensed healthcare professional" in Section 1 due to removal of confusing language in Section 2 authorizing another licensed healthcare professional to represent the licensee in meeting client requirements, and further clarifies that both the practitioner and the client may elect to discontinue the provision of services through telehealth.

(b) The necessity of the amendment to this administrative regulation:
The amendment after comments was necessary for clarity.

(c) How the amendment conforms to the content of the authorizing statutes:
KRS 310.041(1) requires the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists to promulgate administrative regulations to regulate the issuance of licenses and certificates under KRS 310.021 and KRS 310.031.

(d) How the amendment will assist in the effective administration of the statutes:
This regulation assists in the effective administration of KRS Chapter 310 by carrying out the legislative mandate for the board to establish regulations for the issuance of licenses and certifications to practice dietetics and nutrition.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?No.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This regulation will affect the 2436 active and 76 inactive licensees in some capacity, and will also affect new applicants for licensure.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

Dietitians and nutritionists will have to abide by the procedures governing telehealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

There is no additional cost imposed by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Dietitians and nutritionists will have clearly established procedures to be able to provide services via telehealth.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There is no additional cost.

(b) On a continuing basis:

There is no additional cost.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

The board's operations are funded by fees paid by credential holders and applicants.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish fees or directly or indirectly increase any fees.

(10) TIERING: Is tiering applied?

Tiering was not applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:
KRS 310.041, 310.200, 211.334, 211.335, 211.338

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:
Yes. KRS 310.200, Created 2000 Ky. Acts ch. 376, sec. 10, effective July 14, 2000.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:
The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:None

For subsequent years:None

2. Revenues:

For the first year:None

For subsequent years:None

3. Cost Savings:

For the first year:None anticipated

For subsequent years:None anticipated

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):
None anticipated.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
There are no other regulated entities not otherwise listed.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

This administrative regulation will not generate revenue for state or local government

(b) Methodology and resources used to reach this conclusion:

The board requested its fiscal administrator provide a budget analysis to determine if this administrative regulation will generate revenue for the Board and it determined it will not.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion:

Methodology and resources included a review of the existing budget by the board’s fiscal administrator as well as consideration of the regulation and whether staff time and costs will be increased.