

201 KAR 17:110. Telehealth and telepractice.

RELATES TO: KRS 334A.200

STATUTORY AUTHORITY: KRS 334A.200

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.200 requires the Board of Speech Language Pathology and Audiology to promulgate administrative regulations to implement the use of telehealth services by speech-language pathologists and audiologists. This administrative regulation establishes requirements for the use of telehealth services.

Section 1. Definitions.

- (1) "Client" means the person receiving the services of the speech-language pathologist or audiologist and the representative thereof if required by law.
- (2) "Telehealth" is defined by KRS 334A.200(3).
- (3) "Telepractice" means the practice of speech language pathology or audiology as defined by KRS 334A.020(4) and KRS 334.020(6) respectively provided by using communication technology that is two (2) way, interactive, and simultaneously audio and video.

Section 2. Client Requirements. A practitioner-patient relationship shall not commence via telehealth. An initial, in-person meeting for the practitioner and patient who prospectively utilize telehealth shall occur. A licensed health care practitioner may represent the licensee at the initial, in-person meeting. A licensee who uses telehealth to deliver speech language pathology or audiology services or who telepractices or the licensed healthcare practitioner representing the licensee shall, at the initial, in-person 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;
- (3) Provide to the client alternative means of contacting the licensee other than electronically;
- (4) Document if the client has the necessary knowledge and skills to benefit from the type of telepractice provided by the licensee; and
- (5) Inform the client in writing about:
 - (a) The limitations of using technology in the provision of telepractice;
 - (b) Potential risks to confidentiality of information due to technology in the provision of telepractice;
 - (c) Potential risks of disruption in the use of telepractice;
 - (d) When and how the licensee will respond to routine electronic messages;
 - (e) In what circumstances the licensee will use alternative communications for emergency purposes;
 - (f) Who else may have access to client communications with the licensee;
 - (g) How communications can be directed to a specific licensee;
 - (h) How the licensee stores electronic communications from the client; and
 - (i) That the licensee may elect to discontinue the provision of services through telehealth.

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

- (1) Limit the telepractice to the licensee's scope of practice;
- (2) Maintain continuing competency or associate with a group who has experience in telehealth delivery of care;
- (3) Use methods for protecting health information which shall include authentication and encryption technology;
- (4) Limit access to that information to only those necessary for the provision of services or those required by law; and

(5) Ensure that confidential communications obtained and stored electronically cannot 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 licensee using telehealth to deliver speech language pathology and audiology services and telepractice shall comply with:

(a) State law by being licensed to practice speech language pathology or audiology, whichever is being telepracticed, in the jurisdiction where the practitioner-patient relationship commenced; and

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

(2) If a person provides speech language pathology and audiology services via telepractice to a person physically located in Kentucky at the time the services are provided, that provider shall be licensed by the board.

(3) A person providing speech language pathology and audiology services via telepractice from a physical location in Kentucky shall be licensed by the board. This person may be subject to licensure requirements in other states where the services are received by the client.

Section 5. Representation of Services and Code of Conduct. A licensee using telehealth to deliver services or who telepractices:

(1) Shall not engage in false, misleading, or deceptive advertising of telepractice; and

(2) Shall not split fees.

(39 Ky.R. 918; 1463; 1680; eff. 3-8-2013; Crt eff. 2-21-2020.)