

335.158 Duty of treating clinical social worker utilizing telehealth with client -- Requirements for each telehealth session -- 988 crisis line exception -- Definitions.

- (1) A social worker who provides or facilitates the use of telehealth shall:
 - (a) Ensure that the informed consent of the client, or another appropriate person with authority to make the health care treatment decision for the client, is obtained before services are provided through telehealth;
 - (b) Ensure that the confidentiality of the client's medical information is maintained as required by this chapter and other applicable state and federal law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology that conform to applicable state and federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended;
 - (c) Disclose to the client the potential risks to privacy and confidentiality of information due to the use of technology, including:
 1. The potential risks of disruption in the use of technology;
 2. When and how the social worker utilizes electronic messages;
 3. The circumstances in which the social worker may utilize alternative modes of communication for emergency purposes, including medical, psychiatric, and other emergencies;
 4. The identity of anyone who may have access to client communications with the social worker; and
 5. The identity of the social worker, his or her credentials, and the jurisdiction of licensed practice;
 - (d) Assess the client's current condition and needs to determine the appropriateness of telehealth in meeting those needs and that the client has the necessary knowledge and skill to benefit from telehealth;
 - (e) Adhere to the same or appropriately adapted standards of care as when treatment or services are provided in person;
 - (f) Not engage in fee-splitting with other telehealth providers or entities;
 - (g) Not engage in false, misleading, or deceptive advertising of telehealth services; and
 - (h) Beginning on July 1, 2025, complete a board-approved two (2) hour training course on the use of telehealth to provide social work services.
- (2) Each time a social worker provides or facilitates services via telehealth, the social worker shall:
 - (a) Make a reasonable attempt to verify the identity of the client;
 - (b) Make a reasonable attempt to verify and document the physical location of the client at the time services are provided;
 - (c) Obtain from the client alternative means of contacting the client;
 - (d) Provide information on how communication can be directed to the social worker;

- (e) Utilize non-public facing technology products that comply with the Health Insurance Portability and Accountability Act of 1996 standards in 42 U.S.C. secs. 1320d to 1320d-9; and
 - (f) Document in the client's record that a service was provided via telehealth, including any technological difficulties experienced during the provision of the service and adherence to all appropriate standards of care.
- (3) The provisions of this section shall not apply to a social worker employed or contracted in Kentucky to answer and respond to national 988 crisis line calls to the extent that the provisions of this section are in conflict with the requirements and training provided by the crisis line service provider.
- (4) For purposes of this section:
- (a) "Client" means:
 - 1. An individual, family, or group who receives social work services from a social worker;
 - 2. A corporate entity or other organization, if the social worker is contracted to provide a social work service of benefit directly to the corporate entity or organization; or
 - 3. A legal guardian who is responsible for making decisions regarding the provision of social work services to a minor or legally incompetent adult;
 - (b) "Social worker" means an individual licensed as a:
 - 1. Certified social worker pursuant to KRS 335.080;
 - 2. Licensed social worker pursuant to KRS 335.090; or
 - 3. Licensed clinical social worker pursuant to KRS 335.100; and
 - (c) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 53, sec. 1, effective July 15, 2024. -- Created 2000 Ky. Acts ch. 376, sec. 20, effective July 14, 2000.