

KENTUCKY BOARD OF SOCIAL WORK QUARTERLY NEWSLETTER

October 2023

Kentucky Board of Social Work, 125 Holmes Street, Suite 310, Frankfort, KY 40601
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ANNOUNCEMENTS

Social Work Board Members and Board Staff

Whitney Cassity-Caywood, Ph.D, LCSW,
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Lori Vogel, LCSW
Lexington, KY

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Edgewood, KY

VACANT, Citizen at Large
KY

VACANT, CSW
KY

Marc Kelly, LCSW
Executive Director

Vanessa Jones, B.S.
Executive Assistant

ASWB is transitioning to a new exam system called PSI. Effective November 1, 2023, all candidates registering on or after this date must contact PSI to schedule their exam appointments. To learn more about the transition to PSI check out <https://www.aswb.org/test-administration-changes-coming-january-2-2024/> Or contact ASWB at 888-579-3926

2023 Board Meeting Dates

January 10	July 10
February 14	August 14
March 13	September 11
April 11	October 9
May 8	November 13
June 12	December 11

All board meetings are held at 125 Holmes Street, Suite 310, Frankfort KY and are open to the public. Please join us when you can. NOTE: ALL BOARD MEETINGS FOR THE REMAINDER OF THE YEAR WILL BE ON THE 2ND MONDAY OF EACH MONTH. Thanks!!

Board dates above are subject to change.

Have you moved, changed employers, or had a name change?

Let us know by making these changes using the Self-Service Portal on the Board website below.....

<https://bsw.ky.gov>

You may also email Board staff or call the office

TELEHEALTH REGULATION

GENERAL GOVERNMENT CABINET

Kentucky Board of Social Work

(New Administrative Regulation)

201 KAR 23:170. Telehealth and social work practice.

RELATES TO: KRS 335.158

STATUTORY AUTHORITY: KRS 335.158(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.158 requires social workers utilizing telehealth to ensure a patient's informed consent and to maintain confidentiality. This administrative regulation protects the health and safety of individuals and establishes procedures for preventing abuse and fraud through the use of telehealth, prevents fee-splitting through the use of telehealth by social workers who utilize telehealth in the provision of social work services, and the provision of continuing education.

Section 1. Definitions.

(1) "Client" is defined by 201 KAR 23:080, Section 1.

(2) "Clinical social worker" means a licensed clinical social worker or a certified social worker under the supervision of a licensed clinical social worker.

(3) "Electronic social work service" means the use of Technology-Enabled Modalities and other electronic means to:

(a) provide information to the public;

(b) deliver social work services to clients;

(c) communicate with clients;

(d) manage confidential information, personally identifiable information, protected health information, and financial and case records;

(e) deliver services through videoconferencing, electronic mail, text, chat, facsimile, virtual, /augmented/extended/mixed reality, artificial intelligence, standard audio-only telephone, or digital and analog methods;

(f) store and access information about clients;

(g) provide Synchronous Telehealth or Asynchronous Telehealth; and

(h) arrange payment for professional services.

(1) "Telehealth" as defined in KRS 335.158(3) and KRS 211.332(5).

(2) "Telehealth Service" means any service provided via electronic means that utilizes the social worker's skills, knowledge, and training for a client,

(a) Event;

(b) Encounter;

(c) Consultation;

(d) Visit;

(e) Store-and-Forward transfer;

(f) Remote Patient Monitoring;

(g) Referral; or

(h) Treatment.

(4) "Teletherapy" means the practice of clinical social work as defined in KRS 335.020 and 201 KAR 23:070; and,

(5) "Telehealth Terminology Glossary" in 900 KAR 12:005 is incorporated by reference.

Section 2. Standards of Practice.

All licensees using telehealth to deliver telehealth, teletherapy, or electronic social work services shall, upon initial contact with a potential client and with the client thereafter:

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

(2) Make reasonable attempts to verify and document the physical location of the client(s);

(3) Obtain alternative means of contacting the client(s) other than including electronically;

(4) Provide how communications can be directed to the social worker other than electronically;

(5) Assess and document that the client's needs are appropriate for telehealth, teletherapy, or electronic social work services and that the client has the necessary knowledge and skill to benefit from telehealth, teletherapy, or electronic social work services provided by the social worker;

(6) Use secure communications with clients, including encrypted text messages, email, non-public remote communication facing products, or secure internet sites.

(7) Not use personally identifying information or PHI in non-secure communications without expressed written and periodically reviewed informed consent to use non-secure communication.

(8) Obtain written informed consent for telehealth, teletherapy, or electronic social work services that include:

(a) The informed consent as required 201 KAR 23:080;

(b) The client's right to request in-person visits;

(c) The limitations of using technology in the provision of services;

(9) Potential risks to privacy and confidentiality of information due to the use of technology in the provision of services;

(a) Potential risks of disruption in the use of technology;

(b) When and how the social worker utilizes electronic messages;

(c) The circumstances in which the social worker will use alternative communications for emergency purposes, including medical, psychiatric, or other emergencies;

(d) Anyone who may have access to client communications with the social worker;

(c) Identification of the social worker, their credentials, and the jurisdiction(s) of licensed practice;

(d) How or when recording of services is permitted by either the licensee or the client; and,

(e) How electronic signatures are obtained.

(10) The requirement of written informed consent shall not apply to an emergency if the client cannot provide informed consent, and the client's legally authorized representative is unavailable.

(11) Provide how the social worker stores and disposes of recordings or electronic communications from the client; and,

(12) Document in the client's record that a service was provided by electronic social work service within forty-eight (48) hours of the service, including any technical difficulties and adherence to all standards of care;

(13) All licensees using telehealth, teletherapy, or electronic social work services to deliver social work services shall adhere to the same or appropriately adapted standards of care as in-person care.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records.

(1) A social worker using telehealth, teletherapy, or electronic social work services to deliver social work services shall:

(a) Limit the practice of telehealth or teletherapy, or electronic social work services 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, teletherapy, or electronic social work services through continuing education, consultation, or other methods, in conformance with standards of care and professional knowledge;

(2) Document the client's presenting problem, service needs, care plan, treatment, diagnosis, or reasons for social work services;

(a) Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the social worker disposes of electronic equipment and data;

(b) Ensure the availability and integrity of digital records;

(c) Have a set and disclosed retention period for secure storage of records, recordings, or electronic communications; and

(d) Provide services only within their scope of practice.

(3) Licensees providing clinical social work under supervision by an approved LCSW supervisor shall:

(a) Disclose all telehealth, teletherapy, or electronic social work services in the contract for supervision required under 201 KAR 23:070 or 201 KAR 23:160; and,

(b) Comply with the directives of the board.

(3) A social worker licensed in another jurisdiction and using telehealth, teletherapy, or electronic social work services to deliver social work services to a client located in Kentucky at the time of service or is located in Kentucky at the time of service shall have a temporary permit to provide services or be licensed in Kentucky.

Section 4. Continued education.

(1) All licensees shall attain or maintain their competence to deliver telehealth, teletherapy, or electronic social work services through appropriate supervision and continued education.

(2) All new licensees shall take a board approved two-hour course once within their first license cycle on the regulations for delivering telehealth, teletherapy, or electronic social work services.

(3) All current licensees shall take a two-hour course on the regulations for delivering telehealth, teletherapy, or electronic social work services approved by the board by June 30, 2024.

(4) Continued education presented as an electronic social work service shall comply with 201 KAR 23:075.

Section 5. Compliance with Federal, State, and Local Law.

All licensees using telehealth to deliver social work services or teletherapy, or electronic social work services shall comply with the following:

(1) The federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9, any amendments or changes subsequently included, and other applicable federal and state laws.

(2) The laws and regulations of the jurisdiction in which they are located and in which the client is located at the time service is rendered and under KRS 211.336(2)(i) when not in conflict with another state's laws;

(3) Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to allow telehealth, teletherapy, or electronic social work services accessible to a client with disabilities.

Section 6. Representation of Services and Code of Conduct.

A licensee using telehealth to deliver social work services or teletherapy, or electronic social work services:

(1) Shall not, by or on behalf of the social worker, engage in false, misleading, or deceptive advertising of services via telehealth, teletherapy, or electronic social work services;

(2) Shall not employ fee-splitting with other telehealth persons or entities;

(3) Shall comply with 201 KAR 23:080 Code of ethical conduct; and

(4) Shall comply with all applicable administrative regulations.

Section 7. Incorporation by Reference.

(1) "Telehealth Terminology Glossary," August 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Telehealth Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m., or from its Web site at <https://telehealth.ky.gov>.

Telehealth Terminology Glossary

Anti-Kickback Statute means the federal statute, 42 U.S.C. sec. 1320a-7b(b), that makes it illegal for providers (including physicians) to knowingly and willfully accept supplies, money, or other forms of remuneration in exchange for referring patients for services which will be paid by Medicaid, Medicare or Tricare. Some states, including Kentucky, have similar prohibitions under state law.

Asynchronous Telehealth means a one-way communication mode that is often referred to as "store-and-forward" and represents a health communication process where a patient or clinician collects and records medical health history in the form of data, images, audio or video that is then transmitted and stored at a secure depot for

review at a later time by a clinical health provider for the purposes of interpretation, diagnosis, consultation, and treatment.

Audio-only Telecommunication means communication through the use of a telephone that does not include a visual component.

Business Associate Agreement (BAA) means an agreement signed by video communication vendors that provides assurances that stronger security capabilities have been included in their products to prevent data interception and protect electronic personal health information.

Clinical Text/Chat means text/chat technology used between a health care provider and a patient within a secure, HIPAA-compliant telehealth or electronic medical record (EMR) platform. The visit (clinical chat/text conversation) can be synchronous (real-time) or asynchronous (i.e. patient can submit a question via text/chat in follow-up to a visit). Clinical text/chat can be utilized if it is within the scope of the provider's professional licensure and scope of practice. The secure telehealth/EMR platform also enables the provider to view the patient's chart/medical history and current health concerns prior to and during the clinical text/chat just like a provider would in a traditional brick and mortar setting.

Covered Entities means health care providers (including physicians), health care plans (insurers), and health care clearinghouses.

Credentialing means the process of obtaining, verifying, and assessing the qualifications of a practitioner to provide care or services in or for a health care organization. Credentials are documented evidence of licensure, education, training, experience, or other qualifications.

Distant Site means the telehealth site where the provider/specialist is seeing the patient at a distance or consulting with a patient's provider. Other common names for this term include – hub site, specialty site, provider site, and referral site.

E-visit means a non face-to-face, patient-initiated communication using secure messaging through an online patient portal for established patients.

Face-to-Face means visual recognition through live or real-time, interactive, audio and video technology where a provider and patient are in different locations.

Fee Splitting means two or more providers sharing or splitting the professional fee for a healthcare service. Fee splitting is illegal for most health care services. Verify with your payor/insurer if fee splitting is allowed or forbidden.

Health Insurance Portability & Accountability Act of 1996 (HIPAA) means the federal law, 42 U.S.C. secs. 1320d to 1320d-9, that required the creation of national standards to protect sensitive patient health information from being disclosed without the patient's consent or knowledge. It covers only information created, received, or maintained by or on behalf of health care providers and health plans. HIPAA regulations include Privacy Rule; Security Rule; Enforcement Rule; and Breach Notification Rule.

In-Person Visit means a healthcare encounter at which a provider and patient are physically present in the same room.

Licensed Provider means a provider licensed by their professional licensure board to practice in the state in which the patient is located, and who is operating within the scope of the provider's professional licensure and scope of practice.

Medicaid Telehealth Provider means a telehealth provider enrolled in Medicaid in accordance with 907 KAR 1:672; participating as a Medicaid provider in accordance with 907 KAR 1:671; operating within the scope of the provider's professional licensure; and operating within the provider's scope of practice.

Medically Necessary Health Care Services means health care services that a provider would render to a patient for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is: (a) in accordance with generally accepted standards of medical practice; and (b) clinically appropriate in terms of type, frequency, extent, and duration.

Non-Public Facing Remote Communication Products means communication products that employ end-to-end encryption, which allows only an individual and the person with whom the individual is communicating to see what is transmitted.

Originating Site means the site where the patient is physically located at the time a telehealth service or telehealth consultation is provided.

Place of Service means anywhere the patient is located at the time a telehealth service is provided and includes the patient's home or office, or a clinic, school, or workplace.

Place of Service Code means a Centers for Medicare and Medicaid Services code utilized to specify where service(s) were rendered. For example, place of service 02 is used by Medicaid to designate that a service was provided or rendered by a telecommunications system.

Presenter means an individual with a clinical background (e.g., LPN, RN, etc.), trained in the use of the telehealth equipment who is available at the originating site to "present" the patient, manage the cameras, and perform any "hands-on" activities to successfully complete an exam for a distant provider.

Privileging means the process whereby a specific scope and content of a patient care service (that is clinical privileges) are authorized for a healthcare practitioner by a health care organization, based on an evaluation of the individual's credentials.

Protected Health Information (PHI) means individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

Public-Facing Remote Communication Products means communication products that are designed to be open to the public or allow wide or indiscriminate access to the communication.

Referral means an order from a primary care doctor to a specialist for specific medical services.

Remote Patient Monitoring means the collection, transmission, evaluation, and communication of individual health data from a patient to their healthcare provider or extended care team from outside a hospital or clinical office (i.e., the patient's home) using personal health technologies including wireless devices, wearable sensors, implanted health monitors, smartphones and mobile apps. Remote patient monitoring supports ongoing condition monitoring and chronic disease management and can be synchronous or asynchronous, depending upon the patient's needs. The application of emerging technologies, including artificial intelligence (AI) and machine learning, can enable better disease surveillance and early detection, allow for improved diagnosis, and support personalized medicine.

Stark Law means the federal law, 42 U.S.C. sec. 1395nn, that prohibits a provider from referring patients for services paid by Medicare, Medicaid, or Tricare to another provider for the provision of a designated health service (DHS) (like laboratory work or radiology) if the referring physician or closely related family member owns or has a financial relationship with the entity providing the DHS.

Store-and-Forward means a type of telehealth encounter or consult that uses still digital images of a patient for the purpose of rendering a medical opinion or

diagnosis. Common types of store-and-forward services include radiology, pathology, dermatology and wound care. Store-and-forward also includes the asynchronous transmission of clinical data, such as blood glucose levels and electrocardiogram (ECG) measurements, from one site (e.g., patient's home) to another site (e.g. home health agency, hospital, or clinic).

Synchronous Telehealth means a two-way or bi-directional mode that means a telehealth service that simulates an in-person encounter via real-time interactive audio and video technology between a telehealth provider and a patient/recipient with each in a different geographic location.

Technology-Enabled Modalities means telehealth and virtual care solutions that provide for physician-to-physician consultation, patient education, data transmission, data interpretation, digital diagnostics (algorithm-enabled diagnostic support) and digital therapeutics (the use of personal health devices and sensors, either alone or in combination with conventional drug therapies, for disease prevention and management).

Telehealth or Digital Health:

(a) Means a mode of delivering healthcare services through the use of telecommunication technologies, including but not limited to synchronous and asynchronous technology; remote patient monitoring technology; and audio-only encounters, by a health care provider to a patient or to another health care provider at a different location.

(b) Shall not include:

1. The delivery of health care services through electronic mail, text, chat, or facsimile unless a state agency authorized or required to promulgate administrative regulations relating to telehealth determines that health care services can be delivered via these modalities in ways that enhance recipient health and well-being and meet all clinical and technology guidelines for recipient safety and appropriate delivery of services; or
2. Basic communication between a health care provider and a patient, including but not limited to appointment scheduling, appointment reminders, voicemails, or any other similar communication intended to facilitate the actual provision of healthcare services either in-person or via telehealth; and

(c) Unless waived by the applicable federal authority, shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.

Telehealth Consultation means a medical or health consultation for purposes of patient diagnosis or treatment that meets the definition of telehealth.

Telehealth Informed Consent means informed consent given by the patient, or an individual with authority to make the health care treatment decisions for the patient, before a healthcare service is provided via telehealth.

Telehealth Service means any service that is provided by telehealth and is one of the following: (a) Event; (b) Encounter; (c) Consultation; (d) Visit; (e) Store-and-Forward transfer; (f) Remote Patient Monitoring; (g) Referral; or (h) Treatment.

Telemedicine means the use of medical information exchanged from one site to another via electronic communications to improve a patient's clinical health status.

Telephonic Services means healthcare services delivered via audio-only telecommunication.

Temporarily Located means to be present in a location where a person is not domiciled:

(a) 1. For a period of no more than one hundred eighty-two days (182) days per year; or

2. For a period of one hundred eighty-three (183) days or more per year if the absence is due to an extended temporary stay such as for:

a. A temporary job assignment or employment; or

b. Attendance at a college, school, or university; and

(b) The person intends to return to his or her true, fixed, permanent home.

Transmission Cost means the connection costs and related charges that could occur during the time of the transmission of a telehealth consultation.

Virtual Visit means the transmission, communication, consultation, and evaluation by a healthcare provider to a patient where care (primary care, specialty care, or behavioral health care) is performed virtually. Approved modalities for facilitating the visit include: synchronous or asynchronous text/chat; real-time audio and video, asynchronous store-and-forward telehealth technology, audio-only telecommunication technology all within a secure, HIPAA compliant telehealth or EMR platform. Remote patient monitoring devices, wearable sensors or implanted monitors using wireless technology/Bluetooth may also be connected to the secure platform to support the visit.

Note: The Division of Telehealth is responsible for establishing this glossary of standard telehealth definitions, as well as providing guidance to providers and promoting access to telehealth services. It is not a credentialing or licensure organization.

Frequently Asked Questions

**** What are the qualifications to be an approved LCSW supervisor?**

An approved LCSW supervisor has to be:

1. licensed for 2 years as a clinical social worker;
2. has to take an approved 6 hour LCSW supervision training course prior to applying to be a supervisor. And then must complete every renewal period;
3. complete the request to provide supervision form and submit to the Board office OR you can apply online on the board home page.

NOTE: you cannot start providing supervision until you receive your approval notice from the Board.



"We cannot teach people anything; we can only help them discover it within themselves."

Things You Can Do

1. When you need an official license verification from the Board, you can request a digital verification from the website. Note there is a \$25 license verification fee. If we need to send an official verification to any states for you, be sure to email this information to us so we know where to send it.
2. If you have any changes, such as a name change, be sure to go to the self service portal on the website and update any changes.
3. If you let your license expire for any reason and you want to reinstate it, be sure to mail the reinstatement application and all needed documents to the board office for review. NOTE: you may or may not be required to retake your ASWB exam depending on the length of your license expiration.
4. Keep your mind active and learn something new every day!
5. ALWAYS take care of yourself!

Reminders

- Our new Facebook page is called "The KY Board of Social Work" be sure to like and share it!
- Check your license expiration date and get your license renewed before they expire. You can renew 3 months in advance
- If you would like to attend our monthly Board meeting, please let us know, we would love to have you.
- ASWB has FREE test prep and resources available on their website aswb.org
- Be sure to review the ASWB website for updates on the new exam testing site.
- When you are ready to work toward your LCSW, be sure to submit a supervision contract to the board office for approval first. We will not count any hours prior to that approval date.
- When you have completed your hours for the LCSW, be sure to apply online at the Board website to take your exam.