

1 BOARDS AND COMMISSIONS

2 KENTUCKY BOARD OF LICENSED DIABETES EDUCATORS

3 (New Administrative Regulation)

4 201 KAR 45:190. Telehealth diabetes education.

5 RELATES TO: KRS 309.331

6 STATUTORY AUTHORITY: KRS 309.331, 211.332, 211.334, 211.335, 211.336, 211.338.

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.331 authorizes the board to prom-
8 ulgate administrative regulations to carry out and enforce KRS 309.325 to 309.339. KRS
9 211.332 authorizes the use of telehealth in the Commonwealth to ensure a patient's informed
10 consent and to maintain confidentiality. This administrative regulation protects the health and
11 safety of the citizens of Kentucky and establishes procedures for preventing abuse and fraud
12 through the use of telehealth, prevents fee-splitting through the use of telehealth, and utilizes
13 telehealth in the provision of diabetes educator services and in the provision of continuing educa-
14 tion.

15 Section 1. Definitions.

16 (1) "Client" means the person receiving the services of the licensed diabetes educator or the
17 diabetes educator apprentice.

18 (2) "Credential holder" is defined as licensed diabetes educator or the diabetes educator ap-
19 prentice.

20 (3) "Telehealth" is defined by KRS 211.332(5). Telehealth shall not include the delivery of
21 services through electronic mail, text chat, facsimile, or standard audio-only telephone call and

1 shall be delivered over a secure communications connection that complies with the federal
2 Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.

3 (4) "Telehealth diabetes education" means the practice of diabetes education, as defined by
4 KRS 309.325(2), between the credential holder and the patient that is provided using:

5 (a) Electronic communication technology; or

6 (b) Two (2) way, interactive, simultaneous audio and video.

7 (4) "Telehealth service" means any service that is provided via telehealth and is one (1) of the
8 following:

9 (a) Event;

10 (b) Encounter;

11 (c) Consultation;

12 (d) Visit;

13 (e) Remote patient monitoring;

14 (f) Referral; or

15 (g) Treatment.

16 Section 2. Patient Requirements. A credential holder using telehealth to deliver diabetes educa-
17 tion services or who practices diabetes education shall, upon initial contact with the patient:

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

19 (2) Obtain alternative means of contacting the patient other than electronically, which may in-
20 clude obtaining the patient's phone number or email address;

21 (3) Provide to the patient alternative means of contacting the credential holder other than elec-
22 tronically, which may include providing the credential holder's phone number or email address;

23 (4) Document if the patient has the necessary knowledge and skills to benefit from the type of

1 diabetes education provided by the credential holder;

2 (5) Use secure communications with the patient, including encrypted text messages via e-mail
3 or secure Web sites, and not use personal identifying information in non-secure communications;

4 (6) Inform the patient in writing about:

5 (a) The limitations of using technology in the provision of diabetes education;

6 (b) Potential risks to confidentiality of information due to technology in the provision of
7 diabetes education;

8 (c) Potential risks of disruption in the use of diabetes education;

9 (d) When and how the credential holder will respond to routine electronic messages;

10 (e) The circumstances in which the credential holder will use alternative communications
11 for emergency purposes;

12 (f) Who else may have access to patient communications with the credential holder;

13 (g) How communications can be directed to a specific credential holder; and

14 (h) How the credential holder stores electronic communications from the patient.

15 (7) Within forty-eight (48) hours of the telehealth service, the credential holder shall docu-
16 ment within the patient's medical record that a service was provided by telehealth, and follow all
17 documentation requirements of the practice.

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

19 (1) A credential holder using telehealth to deliver diabetes education services or who practices
20 telehealth diabetes education shall:

21 (a) Limit the practice of telehealth diabetes education to the area of competence in which
22 proficiency has been gained through education, training, and experience;

23 (b) Maintain current competency in the practice of telehealth diabetes education through

continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;

(c) Follow all the record-keeping requirements;

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

(e) Document the patient's written informed consent to the services being provided and the provision of those services via telehealth, including that the patient or client has the right to refuse telehealth consultation or services, has been informed of alternatives to telehealth services, that the patient or client shall be entitled to receive information from the provider regarding the services rendered, that the patient or client's information shall be protected by applicable federal and state law regarding patient confidentiality, that the patient or 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 such person, and that the patient or client shall have the right to be advised, and to object to, any recording of the telehealth consultation or services.

(2) The requirement of a written informed consent shall not apply to an emergency situation if the patient is unable to provide informed consent and the patient's legally authorized representative is not available.

Section 4. Compliance with Federal, State, and Local Law. A credential holder using telehealth to deliver diabetes education services shall:

(1) Comply with the state law where the credential holder is credentialed and state law regarding the practice of diabetes education where the patient is located at the time services are ren-

dered;

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

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

Section 5. Representation of Services and Code of Conduct. A credential holder using telehealth to deliver diabetes education services:

(1) Shall not, by or on behalf of the credential holder, engage in false, misleading, or deceptive advertising of telehealth diabetes services; and

(2) Shall comply with the code of ethics established by 201 KAR 45:140.

(3) Shall not allow fee-splitting through the use of telehealth diabetes education services.

Section 6. A person holding a license as a diabetes educator or a permit as a diabetes educator apprentice who provides telehealth services to a person physically located in Kentucky shall be subject to the laws and administrative regulations governing diabetes education in Kentucky.

APPROVED BY AGENCY:



E. Blair Lykins
Chair, Board of Licensed Diabetes Educators

Date: 11/6/2025

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on January 27, 2026, at 2:00 P.M. Eastern Time, in PPC Conference Room 127CW, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through January 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON:

Name: Sara Boswell Janes

Title: Staff Attorney III

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Link to PPC public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 45:190

Contact Person: Sara Janes

Phone: 502-782-2709

Email: sara.janes@ky.gov

Subject Headings: Diabetes Educators, Licensing, Boards and Commissions.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements for credential holders who use telehealth in delivering health care to patients.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the requirements under KRS 211.332.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 309.331(1) and 211.332 to 211.338.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of enforcement of KRS 309.325 to 309.339 in ensuring credential holders comply with the telehealth statutes.

(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 is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(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: There are currently 244 credential holders and 2 inactive credential holders.

(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: Each licensee will have to adhere to the requirements of the telehealth laws which prohibition of fee splitting and each credential shall

meet the requirements requiring notice and transparency with patients, confidentiality, obtain competency in the use of telehealth, assure confidentiality, follow record keeping requirements, and follow federal law requiring access for persons with disabilities

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The costs will vary and the licensee is not required to offer telehealth services

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): All credential holders will understand they have the option of offering telehealth services to their patients and better understand the requirements relating to telehealth.

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

(a) Initially: No additional costs are necessary to implement this regulation.

(b) On a continuing basis: No additional costs are necessary on a continuing basis.

(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 operation is funded by the fees paid by licensees and apprentice diabetes educators

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

(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 directly or indirectly. Fees are established in another regulation.

(10) TIERING: Is tiering applied? Tiering was not applied because these requirements apply equally to all licensees and permit holders.

FISCAL IMPACT STATEMENT

201 KAR 45:190

Contact Person: Sara Janes

Phone: 502-782-2709

Email: sara.janes@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 309.331, 211.332, 211.334, 211.335, 211.336, 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 211.336. Ky. Acts ch. 68, sec. 1, effective July 14, 2022. -- Created 2021 Ky. Acts ch. 67, sec. 3, effective June 29, 2021.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensed Diabetes Educators is housed for administrative purposes within the Office of Occupations and Professions in the Public Protection Cabinet

(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.

For subsequent years: None.

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

(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): None.

(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 have a fiscal impact as there are no revenues or expenditures generated since fees are attached in another administrative regulation.

(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(13): 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 was a review of the existing budget by the board’s fiscal administrator as well as consideration of the amendment and whether staff time and costs will be increased.

