



1 BOARDS AND COMMISSIONS

2 KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS

3 (New Administrative Regulation)

4 201 KAR 21:105. Telehealth chiropractic services.

5 RELATES TO: KRS 312.019, KRS 312.220, 211.332, 211.334, 211.335, 211.336

6 STATUTORY AUTHORITY: KRS 312.220, KRS 211.332, KRS 211.336.

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.220(2) requires the board to
8 promulgate administrative regulations in accordance with KRS Chapter 13A to implement this
9 section and as necessary to: (a) Prevent abuse and fraud through the use of telehealth services;
10 (b) Prevent fee-splitting through the use of telehealth services; and (c) Utilize telehealth in the
11 provision of chiropractic services and in the provision of continuing education. Additionally,
12 KRS 312.220(1) requires that a treating chiropractor utilizing telehealth ensures the patient's in-
13 formed consent and maintains confidentiality. KRS 211.336 establishes requirements for state
14 agencies that promulgate administrative regulations relating to telehealth. This administrative
15 regulation establishes the requirements for telehealth for chiropractic services.

16 Section 1. Definitions.

17 (1) "Client" means the person receiving the services of the chiropractor.

18 (2) "Telehealth" is defined by KRS 312.220(3) and KRS 211.332(5).

19 (3) "Telehealth chiropractic services " means the practice of chiropractic as defined by KRS
20 312.220(3), between the chiropractor and the patient that is provided, using:

21 (a) interactive audio, video, or other electronic media; or

1 (b) electronic media for diagnosis, consultation, treatment, and transfer of health or medical
2 data.

3 Section 2. Client Requirements. A practitioner-patient relationship may commence via tele-
4 health. An in-person initial meeting shall not be required unless the provider determines it is
5 medically necessary to perform those services in person as set forth in KRS 211.336(2)(a). A li-
6 censed health care practitioner may represent the client at the initial meeting. A credential holder
7 using telehealth to deliver chiropractic services shall, upon initial contact with the client:

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

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

11 (3) Provide to the client alternative means of contacting the credential holder other than elec-
12 tronically such as by the use of a telephone number or mailing address;

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

15 (5) Document if the client has the necessary knowledge and skills to benefit from the type of
16 telehealth provided by the credential holder;

17 (6) Use secure communications with clients, including encrypted text messages via e-mail or
18 secure Web sites, and not use personal identifying information in non-secure communications;

19 (7) In accordance with KRS 312.220(1)(a) and 900 KAR 12:005 Section 2(3), obtain the in-
20 formed consent of the client; and

21 (8) Inform the client in writing about:

22 (a) The limitations of using technology in the provision of telehealth chiropractic services;

23 (b) Potential risks to confidentiality of information, or inadvertent access of protected health

- 1 information, due to technology in the provision of telehealth chiropractic services;
- 2 (c) Potential risks of disruption in the use of telehealth chiropractic services;
- 3 (d) When and how the credential holder will respond to routine electronic messages;
- 4 (e) In what circumstances the credential holder will use alternative communications for emer-
- 5 gency purposes;
- 6 (f) Who else may have access to client communications with the credential holder;
- 7 (g) How communications can be directed to a specific credential holder;
- 8 (h) How the credential holder stores electronic communications from the client; and
- 9 (i) How the credential holder may elect to discontinue the provision of services through tele-
- 10 health.

11 Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records. A cre-

12 dential holder using telehealth to deliver telehealth chiropractic services shall:

- 13 (1) Limit the practice of telehealth chiropractic services to the area of competence in which
- 14 proficiency has been gained through education, training, and experience;
- 15 (2) Maintain current competency in the practice of telehealth chiropractic through continuing
- 16 education, consultation, or other procedures, in conformance with current standards of scientific
- 17 and professional knowledge;
- 18 (3) Document the client's presenting problem, purpose, or diagnosis;
- 19 (4) Follow the record-keeping requirements of 201 KAR 21:100;
- 20 (5) Use methods for protecting health information, which shall include authentication and en-
- 21 cryption technology as required by KRS 312.220(1)(b) and KRS 211.332(5)(c); and
- 22 (6) Ensure that confidential communications obtained and stored electronically shall not be
- 23 recovered and accessed by unauthorized persons when the credential holder disposes of electron-
- 24 ic equipment and data.

1 Section 4. Compliance with Federal, State, and Local Law. A credential holder using tele-
2 health to deliver telehealth chiropractic services shall:

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

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

6 (3) Be licensed or otherwise authorized by law to practice chiropractic where the client is
7 physically present; and

8 (4) Comply with applicable state laws and regulations in the event the credential holder pro-
9 vides telehealth services from a location outside of Kentucky.

10 Section 5. Representation of Services and Code of Conduct. A credential holder using tele-
11 health to deliver chiropractic services or who practices telehealth chiropractic:

12 (a) Shall not engage in false, misleading, or deceptive advertising of telehealth chiropractic
13 services;

14 (b) Shall comply with the Code of Ethics, 201 KAR 21:015;

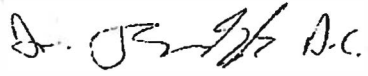
15 (c) Shall not allow fee-splitting through the use of telehealth chiropractic
16 Services in compliance with KRS 312.220(2)(b); and

17 (d) Shall conform to the statutes and regulations governing the provision of chiropractic ser-
18 vices in Kentucky and in consideration of the scope of practice relating to chiropractic.

19 Section 6. A person holding a license as a chiropractor who provides telehealth services to a
20 person physically located in Kentucky shall be subject to the laws and regulations governing chi-
21 ropractic services in Kentucky.

201 KAR 21:105

APPROVED BY AGENCY:

A handwritten signature in black ink, appearing to read "Dr. James England D.C.", written over a horizontal line.

Dr. James England
Chair, Board of Chiropractic Examiners

Date: March 13, 2023