



KENTUCKY BOARD OF ALCOHOL & DRUG COUNSELORS

Andy Beshear
Governor

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Tim Cesario
Chair

MEMORANDUM FOR IMMEDIATE RELEASE

TO: All Credential Holders and Applicants for a Credential
FROM: Kentucky Board of Alcohol and Drug Counselors
RE: Executive Order 2020-243
DATE: April 8, 2020

On March 6, 2020, Governor Andy Beshear declared by Executive Order 2020-215 that a State of Emergency of the public health exists in the Commonwealth of Kentucky due to the novel coronavirus (COVID-19). On March 18, 2020, Governor Beshear issued Executive Order 2020-243. This Executive Order encourages all citizens of the Commonwealth to take all feasible measures to engage in appropriate social distancing to prevent the spread of COVID-19, in accordance with guidance from the Center for Disease Control and Prevention and the Kentucky Department of Public Health. Executive Order 2020-243 orders all boards to take actions necessary to ensure appropriate social distancing and states that any state statute or regulation that conflicts with the provisions of Executive Order 2020-243 is suspended. On March 25, 2020, Governor Beshear issued Executive Order 2020-257, which requires the closure of business that are not life sustaining and mandates the institution of social distancing and hygiene practices for businesses that remain open, and mandates teleworking for those business that can accommodate it. The Board has determined that the following provisions are affected by Executive Order 2020-215, Executive Order 2020-243, and Executive Order 2020-257:

1. **201 KAR 35:040. Continuing education requirements.** Section 2(3), which requires that at least fifty (50) percent of the required continuing education hours for a credential holder shall be earned through live, face to face, continuing education presentations is suspended. During the State of Emergency contained in Executive Order 2020-215, synchronous trainings attended via telecommunication will be accepted as face to face.
2. **201 KAR 35:040. Continuing education requirements.** Section 9(5) requires a person requesting reactivation of registration, certification or licensure to submit evidence of receiving twenty (20) hours of continuing education within one (1) year immediately preceding the date of reactivation is requested. The requirement that a minimum of ten (10) hours shall be live, face to face continuing education presentations is suspended. During the State of Emergency contained Executive Order 2020-215, synchronous trainings attended via telecommunication will be accepted as face to face.
3. **201 KAR 35:050. Curriculum of study.** Section 1(1)(a)1, which requires sixteen (16) hours of interactive training in ethics of which eight (8) hours shall consist of face to face training is suspended. During the State of Emergency contained Executive Order 2020-215, synchronous ethics trainings attended via telecommunication will be accepted as face to face.
4. **201 KAR 35:050. Curriculum of study.** Section 1(2)(b), which requires that a person seeking certification as an alcohol and drug counselor attend a minimum of six (6) hours of face to face ethics training related to counseling is suspended. During the State of Emergency contained in Executive Order 2020-215, synchronous ethics trainings attended via telecommunication will be accepted as face to face.

5. **201 KAR 35:050. Curriculum of study.** Section 1(3)(b), which requires a person seeking licensure as a licensed clinical alcohol and drug counselor attend a minimum of six (6) hours of face to face ethics training related to counseling is suspended. During the State of Emergency contained in Executive Order 2020-215, synchronous ethics trainings attended via telecommunication will be accepted as face to face.
6. **201 KAR 35:070 Supervision experience.** Section 1(4), which requires that a minimum of 200 hours of clinical supervision shall be conducted face to face in an individual or group setting is suspended. During the State of Emergency contained in Executive Order 2020-215, synchronous supervision attended via telecommunication will be accepted as face to face.
7. **201 KAR 35:070 Supervision experience.** Section 3(1)(a) which requires that all supervision requirements shall be met with face to face individual or group weekly contact between supervisor and supervisee, is suspended. During the State of Emergency contained in Executive Order 2020-215, synchronous supervision attended via telecommunication will be accepted as face to face.
8. **Delivery of services by telehealth.** The board has no statutes or regulations governing the delivery of services by telehealth. For boards that do not have statutes that require them to regulate telehealth, if credential holders practice telehealth, the credential holder must abide by state and federal law governing telehealth and their own codes of ethics for their boards. The board's Code of Ethics requires that credential holders practice only in their area of competence, which would include competence in their scope of practice and with the platform they are using.

9. **Supervision of credential holders providing services by telehealth.** The board has also received questions about credential holders providing services via telehealth while under supervision. Credential holders must meet the requirements of 201 KAR 35:070. This administrative regulation sets forth the requirements to become a supervisee and the supervisor's duties when providing oversight. There is currently no prohibition preventing qualified supervisees from providing services via telehealth as long as they are properly supervised by a licensee. Regardless of service setting, supervisors are reminded that they "shall control, direct or limit the supervisee's practice to insure that the supervisee's practice of alcohol and drug counseling is competent" 201 KAR 35:070, Section 5(4). Moreover, supervisors with supervisees delivering services by telehealth are reminded that the supervisor of record shall be responsible for the practice of alcohol and drug counseling by the supervisee. Additionally, when providing supervision, supervisors must operate in accordance with the board's Code of Ethics whether or not services are provided face-to-face or via telehealth.

10. Ordinarily, telehealth services must be done on a HIPAA-compliant platform. During the State of Emergency contained in Executive Order 2020-215, this requirement and any others in 201 KAR Chapter 35 requiring similar compliance are suspended to the extent they require that telehealth be conducted on HIPAA-compliant platforms. Please see the statements from the U.S. Department of Health and Human Services and the Department for Medicaid Services at the Cabinet for Health and Family Services for guidance in this area:

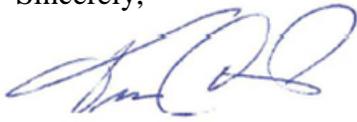
- <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

- <https://chfs.ky.gov/agencies/dms/Documents/ProviderTelehealthFAQs.pdf>

Please note that these changes are only in place during the State of Emergency announced in Executive Order 2020-215 and will expire when the State of Emergency has ceased.

Should you have any questions please contact the Board Administrator, Mallory McDonald, at ADC@ky.gov

Sincerely,



Tim Cesario
Board Chair
Dated: April 8, 2020