Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Kentucky Department of Professional Licensing
500 Mero Street, 2SC32
Frankfort, KY 40601
Phone: (502) 564-3296
Fax: (502) 564-4818

DJ Wasson
SECRETARY

Kristen R. Lawson
COMMISSIONER

November 17, 2026

SENT VIA EMAIL PURSUANT TO KRS 13A.280(3)(d):
Members of the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists Reg Watch Distribution List:

Please be advised that the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists ("KBLCDN") filed an amended after comments version of the following administrative regulation:

SUMMARY OF AMENDED AFTER COMMENTS VERSIONS:

201 KAR 33:015. Applications; approved programs. (Amended After Comments)
Brief explanation of amendments: The Board amended Section 1(6)(a), (b), and (c) to include (1) the requirement an applicant for certification as a nutritionist shall also meet the criteria in KRS 310.031(b), which requires that the applicant be a graduate of a master's degree program in food science, nutrition, or a closely related area to food science or nutrition, and have a minimum of twelve (12) semester hours of graduate credit in human nutrition from a United States regionally-accredited college; (2) clarify that the applicant must meet the requirements of an approved baccalaureate and an approved master's degree program; and (3) Re-insert subsection (3) of KRS 310.031 as an optional qualification for licensure in lieu of the qualifications required under KRS 310.031(2)(a) and (b).

201 KAR 33:020. Renewal, late renewal, revocation, inactive status, reinstatement. (Amended After Comments)
Brief explanation of amendments: The Board has amended Section 1(2), after ninety (90) days, to add the word "before" and strike the word "of" October 31 to clarify that only those with an initial credential issued ninety (90) days before October 31 are not required to renew until October 31 of the next year. This will eliminate any confusion that this would apply to a person issued an initial credential up to ninety (90) days after October 31. In Section 5(4), the Board has amended Line 11 to correct a clerical error where the word "be" was missing after "shall" and before "submitted, to ensure applicants know the FBI criminal background check shall be submitted directly to the Board. Finally, the Board has amended Question 1 on the DPL-DN-02, Renewal Application, to fully address military members and military spouses in compliance with the Servicemembers Civil Relief Act.

201 KAR 33:071. Telehealth and Telepractice. (Amended After Comments)
Brief explanation of amendments: The Board amended Section 1(2) to strike the definition of "licensed healthcare professional" and renumbered the subsequent definitions accordingly. Amendments were also made to Section 2 after comments were made suggesting confusion in the language relating to another licensed healthcare professional appearing to be able to represent the licensee in meeting client requirements. That language was stricken to eliminate any confusion that the provider has a duty to meet the client requirements for telehealth and that the provider's duty cannot be transferred to another healthcare professional. Further, Section 2(6)(i) was amended to clarify that both the practitioner and the client may elect to discontinue the provision of services through telehealth. Finally, Section 4(2)(b) was amended to clarify that services are provided to a "client" who is physically located in Kentucky, and not just a "person" for purposes of consistency with terminology in the regulations. Finally, the Board amended Section 4(4) to clarify that the section applies to Kentucky credential holders.

201 KAR 33:081. Scope of Practice. (Amended After Comments)
Brief explanation of amendments: In Section 1. Scope of Practice. the "Commission on Dietetic Registration" was stricken and replaced with the "Academy of Nutrition and Dietetics" due to a change in the administration and housing of the 2024 Scope and Standards of Practice for Registered Dietitian Nutritionist, and "revised 2024" was stricken due to a duplication in the title and recommendation that it was unnecessary.

A copy of the amended after comments version is attached to this e-mail.

These administrative regulations may be obtained on the KBLCDN Web site and can be accessed online through public libraries or any computer with Internet access. The KBLCDN's Web site is https://bdn.ky.gov/ or the Legislative Research Commission Web site at: https://legislature.ky.gov

FILED WITH LRC
TIME: 2:00 PM
NOV 12 2026
REGULATIONS COMPILER

BOARDS AND COMMISSIONS

KENTUCKY BOARD OF LICENSURE AND CERTIFICATION FOR DIETITIANS AND NUTRITIONISTS

(Amended After Comments)

201 KAR 33:071. Telehealth and telepractice.

RELATES TO: KRS 310.070, 310.200, KRS 211.332, 211.334, 211.336, 211.338

STATUTORY AUTHORITY: KRS 310.200(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 310.200 requires the Board of Licensure and Certification for Dietitians and Nutritionists to adopt administrative regulations to further the objectives stated therein. This administrative regulation establishes procedures necessary to prevent abuse and fraud through the use of telehealth, prevent fee-splitting through the use of telehealth, and utilize telehealth in the provision of dietitian and nutrition services.

Section 1. Definitions.

(1) "Client" means the person receiving the services of the dietitian or nutritionist.

(2) [~~"Licensed healthcare professional" means a medical doctor, registered nurse, practical nurse, nurse practitioner, advanced practice registered nurse, physician's assistant, chiropractor, certified diabetes educator, pharmacist, speech-language pathologist, registered dietitian, certified nutritionist, podiatrist, audiologist, or psychologist licensed in the jurisdiction where he or she is physically located.~~]

~~(3)~~] "Practitioner" means a licensed dietitian or certified nutritionist.

(3)[~~(4)~~] "Telehealth" is defined by KRS 310.200(3) and KRS 211.332(5).

(4)[~~(5)~~] "Telepractice" means the practice of dietetics or nutrition as defined by KRS 310.005(2) and provided by using communication technology that is two (2) way, interactive, simultaneous audio and video, or audio-only encounters.

Section 2. Client Requirements. [~~A licensed health care professional may represent the practitioner at the initial meeting.~~] A practitioner who uses telehealth to deliver dietetics or nutrition services shall, at the initial meeting with the client:

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

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

(3) Provide to the client alternative means of contacting the licensee other than electronically such as by the use of a telephone number or mailing address;

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

(5) Document if the client has the necessary knowledge and skills to benefit from the type of telepractice provided by the licensee; and

(6) Inform the client in writing and document acknowledgement of the risk and limitations of:

(a) The use of technology in the provision of telepractice;

(b) The potential breach of confidentiality of information, or inadvertent access of protected health information, due to technology in the provision of telepractice;

(c) The potential disruption of technology in the use of telepractice;

(d) When and how the practitioner will respond to routine electronic messages;

(e) In what circumstances the practitioner will use alternative communications for emergency purposes;

(f) Who else may have access to client communications with the practitioner;

(g) How communications shall be directed to a specific licensee;

(h) How the practitioner stores electronic communications from the client; and

(i) That the practitioner **or the client** may elect to discontinue the provision of services through telehealth.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records. A practitioner using telehealth to deliver services or who telepractices shall:

(1) Limit the telepractice to the area of competence in which proficiency has been gained through education, training, and experience;

(2) Maintain current competency in telepractice through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge;

(3) Document the client's presenting problem, purpose, or diagnosis, and include which services were provided by telepractice;

(4) Use methods for protecting health information, which shall include authentication and encryption technology as required by KRS 211.332(5)(c); and

(5) Ensure that confidential communications obtained and stored electronically shall not be recovered and accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

Section 4. Compliance with Federal, State, and Local Law.

(1) A practitioner using telehealth to deliver dietetics or nutrition services shall comply with Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with a disability.

(2) A person providing dietetic or nutrition services for which an exception to licensure does not

apply or who represents himself or herself as a dietitian, licensed dietitian, or certified nutritionist pursuant to KRS 310.070 shall be licensed by the board if:

(a) Services are offered via telehealth; and

(b) These services are provided or the representation is made to a **client who**[~~person when he or she~~] is physically located in Kentucky.

(3) A person providing dietetic or nutrition services for which an exception to licensure does not apply or who represents himself or herself as a dietitian, licensed dietitian, or certified nutritionist pursuant to KRS 310.070 shall be licensed by the board if:

(a) Services are offered via telehealth; and

(b) These services are provided or the representation is made from a physical location in Kentucky. This person may be subject to licensure requirements in other states where the services are received by the client.

(4) Comply with the state law where the **Kentucky credential holder**[~~practitioner~~] initiates services.

Section 5. Representation of Services and Code of Conduct. A licensee using telehealth to deliver services or who telepractices shall not:

(1) Engage in false, misleading, or deceptive advertising of telepractice; or

(2) Split fees.

201 KAR 33:071

APPROVED BY AGENCY:



Erin Eliassen, Chair
Board of Licensure and Certification for Dietitians and Nutritionists

Date: November 10, 2026

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 33:071
Contact Person: Sara Boswell Janes
Phone Number: (502) 782-2709 (office)
Email: sara.janes@ky.gov

Subject Headings: Dieticians and Nutritionists, Occupations and Professions, Boards and Commissions,

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation establishes procedures for dietitians and nutritionists practicing telehealth.
(b) The necessity of this administrative regulation: This regulation is necessary to establish procedures for dietitians and nutritionists practicing telehealth, which is required by KRS 310.200.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The Board is given the authority to establish administrative regulations for the practice of dietitians and nutritionists in KRS 310.041, and specifically for telehealth in KRS 310.200.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes procedures for dietitians and nutritionists practicing telehealth.

(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 regulation replaces an expired regulation which was adopted in its entirety as this new regulation. Amendments were made after comments to strike the definition of "licensed healthcare professional" in Section 1 due to removal of confusing language in Section 2 authorizing another licensed healthcare professional to represent the licensee in meeting client requirements, and further clarifies that both the practitioner and the client may elect to discontinue the provision of services through telehealth.
(b) The necessity of the amendment to this administrative regulation: The amendment after comments was necessary for clarity.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 310.041(1) requires the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists to promulgate administrative regulations to regulate the issuance of licenses and certificates under KRS 310.021 and KRS 310.031.
(d) How the amendment will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 310 by carrying out the legislative mandate for the board to establish regulations for the issuance of licenses and certifications to practice dietetics and nutrition.

(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: This regulation will affect the 2436 active and 76 inactive licensees in some capacity, and will also affect new applicants for licensure.

(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: Dietitians and nutritionists will have to abide by the procedures governing telehealth.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): There is no additional cost imposed by this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Dietitians and nutritionists will have clearly established procedures to be able to provide services via telehealth.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(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 operations are funded by fees paid by credential holders and applicants.

(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: No increase in fees or funding will be necessary to implement this administrative regulation.

(9) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(10) TIERING: Is tiering applied? (Explain why or why not): Tiering was not applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

Regulation No. 201 KAR 33:071
Contact Person: Sara Boswell Janes
Phone Number: (502) 782-2709 (office)
Email: sara.janes@ky.gov

(1) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 310.041, 310.200, 211.334, 211.335, 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 310.200, Created 2000 Ky. Acts ch. 376, sec. 10, effective July 14, 2000.

(3) (a) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists.

(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 anticipated
   For subsequent years: None anticipated

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

(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): There are no other regulated entities not otherwise listed.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures: N/A
   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 generate revenue for state or local government

(b) Methodology and resources used to determine the fiscal impact: 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(14): 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 included a review of the existing budget by the board's fiscal administrator as well as consideration of the regulation and whether staff time and costs will be increased.

STATEMENT OF CONSIDERATION
Relating to 201 KAR 033:071
Kentucky Board of Licensure and Certification for Dietitians and Nutritionists
(Amended After Comments)

I. The public hearing on 201 KAR 033:071, scheduled for October 27, 2026, at 1:00 PM EST in Room 127 CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601 was canceled; however, written comments were received during the public comment period.

II. The following people submitted written comments:

Name and Title	Agency/Organization/Entity/Other
Beth Cecil, RDN, LD, President	Kentucky Academy of Nutrition and Dietetics
Whitney Duddey, MHA, RD, LD, FAND, Consumer Protection Coordinator	Kentucky Academy of Nutrition and Dietetics
Hunter Young	American Telemedicine Association

III. The following people from the promulgating administrative body responded to the written comments:

Name and Title	Agency/Organization/Entity/Other
Erin Eliassen	Chair, Board of Licensure & Certification for Dietitians & Nutritionists
Jessica Hogue	Member, Board of Licensure & Certification for Dietitians & Nutritionists
Carolyn Hofe	Member, Board of Licensure & Certification for Dietitians & Nutritionists
Delisa Brooks	Member, Board of Licensure & Certification for Dietitians & Nutritionists
Rayona Baker	Member, Board of Licensure & Certification for Dietitians & Nutritionists
Emily Bugay	Member, Board of Licensure & Certification for Dietitians & Nutritionists

IV. Summary of Comments and Responses

1. Subject Matter: Consistency of terminology between the regulation and the statute.

(a) Comment: In Section 1(2), for consistency with the rest of the rule and other Kentucky regulations, we would recommend spelling "health care" as two separate words. While both "healthcare" and "health care" may be acceptable spellings, in KRS 310.005, "dietitian" is defined "as a health care professional practicing dietetics and licensed pursuant to KRS 310.021."
(b) Response: The Board acknowledges this comment but declines to make the proposed amendment due to its election to amend based on Comment 3 below. The amendment under Comment 3 eliminates the necessity for this definition. Therefore, the Board will amend to strike the definition of "Licensed healthcare professional".

2. Subject Matter: Correction or clarification of credential type.

(a) Comment: On line 19 noting this rule refers to both "registered dietitians" who require licensure in Kentucky and "certified nutritionists" who require certification in Kentucky, we would recommend adding "or certified" after "licensed.
(b) Response: The Board acknowledges this comment but declines to make the recommended change because the definition is being stricken in its entirety and therefore, there will be no reference to clarify.

3. Subject Matter: Clarification of meaning regarding client requirements.

(a) Comment: In Section 2, addressing "Client Requirements," the proposed rule provides, "A licensed health care professional may represent the practitioner at the initial meeting." It is not clear what this is intended to address given the following line requires the licensed dietitian or certified nutritionist to take multiple actions at the initial meeting with the client. If it is intended to imply that a licensed health care professional may serve as an agent of the licensed dietitian or certified nutritionist and take all the required steps identified in (1) – (6), we recommend rewriting the first sentence to more clearly provide for this scenario. If it is determined that the sentence, "A licensed health care professional may represent the practitioner at the initial meeting," is not necessary and may be removed, since the term "licensed health care professional" is only used here, this definition could also be removed. This would necessitate the renumbering of the terms.
(b) Response: The Board concurs with the recommendation to strike the first full sentence in Section 2. Client Requirements. "A licensed health care professional may represent the practitioner at the initial meeting", and further, to strike the definition of "licensed healthcare professional" since it is not referenced in any other section of the regulation.

4. Subject Matter: Clarification of parties who may elect to discontinue provision of services thorough telehealth.

(a) Also under Section 2, page 3, line 6, in subsection (i), we recommend inserting "or the client" after "practitioner," since either the practitioner or the client may elect to discontinue telehealth services. Subsection (i) would then read: "(i) That the practitioner or the client may elect to discontinue the provision of services through telehealth."
(b) Response: The Board concurs and has made the recommended amendment.

5. Subject Matter: Clarification and consistency in reference to "person" versus "client".

(a) Comment: It is noted that throughout 201 KAR 33:071, Section 1, subsection (1) defines "client" as "the person receiving the services of the dietitian or nutritionist." For clarity and consistency, in Section 4, subparagraph (2)(b) "person" should be replaced with "client." Additionally, would recommend replacing "when he or she" with "who." With these recommendations, this sentence would be rewritten to provide: "(b) These services are provided or the representation is made to a client who is physically located in Kentucky.
(b) Response: The Board concurs and will amend to clarify that telehealth services may be provided to a client who is physically located in Kentucky.

6. Subject matter: Compliance with Federal, State, and Local Law.

(a) Comment: 1. Strike Section 4(3) in its entirety. Section 4(2) already establishes the licensure requirement that protects Kentucky clients and does so consistent with the Dietitian Licensure Compact and with the practice of other states. 2. Revise Section 4(4) so that a practitioner is directed to comply with the law of the state in which the client is located at the time services are delivered, rather than the state from which the practitioner initiates services. 3. Confirm that a compact privilege issued under KRS 310.090 satisfies the licensure requirement in Section 4(2).
(b) Response. The Board does not concur with comments on Section 4(3) or 4(4) but will amend to clarify that Section 4(4) applies to Kentucky credential holders. Further, KRS 310.090 and the Dietitian Licensure Compact already authorizes a person holding a Compact privilege authority to provide services and no clarity on an exception is necessary.

Summary of Statement of Consideration and
Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was canceled; however, written comments were received from the Kentucky Academy of Nutrition and Dietetics. The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists is amending this administrative regulation in response to public comments received.

The Board amended Section 1(2) to strike the definition of "licensed healthcare professional" and renumbered the subsequent definitions accordingly. Amendments were also made to Section 2 after comments were made suggesting confusion in the language relating to another licensed healthcare professional appearing to be able to represent the licensee in meeting client requirements. That language was stricken to eliminate any confusion that the provider has a duty to meet the client requirements for telehealth and that the provider's duty cannot be transferred to another healthcare professional. Further, Section 2(6)(i) was amended to clarify that both the practitioner and the client may elect to discontinue the provision of services through telehealth. Finally, Section 4(2)(b) was amended to clarify that services are provided to a "client" who is physically located in Kentucky, and not just a "person" for purposes of consistency with terminology in the regulations. Finally, the Board amended Section 4(4) to clarify that the section applies to Kentucky credential holders.