



KENTUCKY BOARD OF LICENSED PROFESSIONAL COUNSELORS

Andy Beshear
Governor

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Mark Hamm
Chair

MEMORANDUM FOR IMMEDIATE RELEASE

TO: All Licensed Professional Counselors, Licensed Professional Counselor Associates, and Applicants
FROM: Kentucky Board of Licensed Professional Counselors
RE: Response to Executive Order 2020-243
DATE: April 2, 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. On March 18, 2020, Governor Andy 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:

201 KAR 36:040, Section 6. Distance Counseling, Technology, and Social Media; 201 KAR 36:045. Distance Counseling. Section 1. Client Requirements: Section 6 of 201 KAR 36:040 and 201 KAR 36:045, Section 1(7) require that any distance counseling be done on a HIPAA-compliant platform. During the State of Emergency contained in Executive Order 2020-215, these Sections and any others in 201 KAR Chapter 36 requiring similar compliance are suspended to the extent they require that distance counseling be conducted on HIPAA-compliant platforms. Please see the statement from the U.S. Department of Health and Human Services for guidance in this area: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

The Board recognizes that student interns in professional counseling may provide services using telehealth during the State of Emergency declared in Executive Order 2020-215. The Board also recognizes that licensees may use telephonic contact with clients to count as a direct, billable service during the State of Emergency declared in Executive Order 2020-215. To the extent that any statutes in KRS Chapter 335 or regulations in 201 KAR Chapter 36 provide otherwise, the Board recognizes they are suspended during the State of Emergency contained in Executive Order 2020-215.

201 KAR 36:045. Distance Counseling. Section 3. Compliance with Federal, State, and Local Law: Section 3 of 201 KAR 36:045, requires that a licensee using distance counseling to deliver counseling services or who practices distance counseling shall be licensed to practice counseling where the client is domiciled. This section is suspended in part. If a counseling relationship was established prior to the State of Emergency, a counselor not licensed by the Board may practice distance counseling with a client domiciled in this state.

Should you have any questions please contact the Board Administrator, Lyndsay Sipple,
at LPC@ky.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Hamm", written over a light gray rectangular background.

Mark Hamm
Board Chair