

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1101

DEADLINE FOR RECEIPT: May 13, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (7)(E), line 26, is "or tried" necessary? The other parts of this subparagraph already encompass situations where the applicant could be "tried."

In (8), lines 32-33, consider adding "to their knowledge." Applicants are unable to disclose if they have "ever been investigated" if they were never made aware of the investigation.

In (9), line 34, consider replacing "had" with "been a party to."

On pg. 2, (12), line 9, add "applicant's" before "ability" for clarity.

In (15), lines 20-21, replace "21 NCAC 16R .0200" with "the rules of Section .0200 of Subchapter 16R."

In (c), line 27, add a comma after "authority" and after "license" (line 28).

Line 31, consider adding "against the applicant" at the end of the sentence.

On pg. 3, line 1, consider adding "the requisite" before "skills."

In (k), line 21, who will determine if the license is obtained "through fraud or false representation?" Would this finding be made by the Board after a disciplinary process?

Line 23, add G.S. 90-48 to the History Note as authority for this Rule.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Date submitted to agency: April 29, 2025

21 NCAC 16B .1101 is amended as published in 39:14 NCR 923-924 as follows:

SECTION .1100 - REINSTATEMENT

21 NCAC 16B .1101 APPLICATION FOR REINSTATEMENT ~~AND PROOF OF COMPETENCY~~

(a) Any person desiring to practice dentistry in North Carolina whose North Carolina dental license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement. All applications for reinstatement of a dental license shall be submitted on forms furnished by the Board at www.ncdentalboard.org and shall include:

- (1) original dental license number and date of issuance;
- (2) full name;
- (3) street address as of the date of the application;
- (4) telephone number;
- (5) email address;
- (6) citizenship or immigration status, with verifying documentation;
- (7) a statement disclosing and explaining the nature, facts, and disposition of any matter where the applicant has ever:
 - (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor; or
 - (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (8) whether the applicant is under investigation as of the date of the application or has ever been investigated by the Board or any other licensing board;
- (9) whether the applicant has ever had a civil lawsuit related to the practice of dentistry settled;
- (10) all dental licenses from other jurisdictions ever held by the applicant, including dates of licensure;
- (11) a statement disclosing all the applicant's dental practices from dental school graduation to the date of the application, including:

- (A) the dates during which the applicant was engaged in practice as a dentist;
- (B) the addresses of the offices or places at which the applicant was employed or practicing, and the names and addresses of all employers, partners, associates, or persons sharing office space;
- (C) whether the applicant was practicing general dentistry or a specialty; and
- (D) the reason for the termination of each employment or period of private practice;
- (12) a statement disclosing and explaining any current condition or impairment, including a substance use disorder, abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dentistry. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dentist as set out in G.S. 90-41(a)(2) and (7). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program;
- (13) two letters of character reference from non-family members;
- (14) a copy of a National Practitioner Data Bank report concerning the applicant that was obtained within six months prior to the date the report is submitted to the Board;
- (15) documentation of the applicant's completion of continuing education courses, as set out in 21 NCAC 16R .0200, in amounts equal to the number of hours required for renewal of a dental license; and
- (16) a copy of an unexpired CPR certificate.
- (b) The applicant shall submit to the Board the notarized application form for reinstatement with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable reinstatement application fee set forth in 21 NCAC 16M .0101(a)(8) and the renewal fees set forth in 21 NCAC 16M .0101(a)(2) and (b).
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been licensed in other states, the applicant shall request the dental regulatory authority or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental license to send to the Board office, in ~~an unopened envelope sealed by the authority~~, a sealed envelope or via secure electronic transmission, a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending.
- (d) An applicant whose North Carolina license has been revoked, suspended, retired, or expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation.
- (e) An applicant ~~for reinstatement~~ whose North Carolina dental license has been revoked, suspended, retired, or expired for two to five years shall ~~take~~ submit to the Board evidence of completion of refresher courses as specified

1 by the Board if the Board determines that the applicant lacks skills or knowledge to practice dentistry. Refresher
2 courses for an applicant whose license was revoked or suspended shall relate to the deficiencies that led to the
3 imposition of discipline. Refresher courses for an applicant whose license has been retired or expired shall be specified
4 by the Board taking into account the amount of time the license has been retired or expired and the applicant's level
5 of experience.

6 (f) An applicant ~~for reinstatement~~ whose North Carolina dental license has been revoked, suspended, retired, or
7 expired for more than five years shall pass the American Board of Dental Examiners dental licensure clinical
8 examinations before applying for reinstatement.

9 (g) The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and
10 the applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be
11 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded
12 as expired without a refund of the application fees.

13 (h) Absent a Board order stating otherwise, an applicant whose North Carolina dental license has been revoked shall
14 not be eligible to:

15 (1) apply for reinstatement for a period of one year after the effective date of the revocation; or

16 (2) re-apply for reinstatement for a period of one year after the Board's denial of the applicant's previous
17 application for reinstatement.

18 (i) An application for reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (h)
19 of this Rule shall be disregarded without a refund of the application fees.

20 ~~(h)(j)~~ Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

21 ~~(i)(k)~~ Any license obtained through fraud or by any false representation shall be revoked.

22
23 *History Note: Authority G.S. 90-30; 90-41; 90-42;*

24 *Eff. September 1, 2014;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
26 *2018;*

27 *Amended Eff. June 1, 2025; September 1, 2020.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0601

DEADLINE FOR RECEIPT: May 13, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (7)(E), line 26, is “or tried” necessary? The other parts of this subparagraph already encompass situations where the applicant could be “tried.”

In (8), lines 32-33, consider adding “to their knowledge.” Applicants are unable to disclose if they have “ever been investigated” if they were never made aware of the investigation.

In (9), line 34, consider replacing “had” with “been a party to.”

On pg. 2, (12), line 6, add “applicant’s” before “ability” for clarity.

In (15), lines 20-21, replace “21 NCAC 16R .0200” with “the rules of Section .0200 of Subchapter 16I.”

In (c), line 24, add a comma after “authority” and after “license” (line 25).

Line 28, consider adding “against the applicant” at the end of the sentence.

In (e), line 34, consider adding “the requisite” before “skills.”

On pg. 3, (k), line 18, who will determine if the license is obtained “through fraud or false representation?” Would this finding be made by the Board after a disciplinary process?

Line 20, add G.S. 90-48 to the History Note as authority for this Rule.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Date submitted to agency: April 29, 2025

21 NCAC 16C .0601 is amended as published in 39:14 NCR 924-926 as follows:

SECTION .0600 – REINSTATEMENT OF DENTAL HYGIENE LICENSE

21 NCAC 16C .0601 APPLICATION FOR REINSTATEMENT ~~AND PROOF OF COMPETENCY~~

(a) Any person desiring to practice dental hygiene in North Carolina whose North Carolina dental hygiene license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement. All applications for reinstatement of a dental hygiene license shall be made on the forms furnished by the Board at www.ncdentalboard.org and shall include:

- (1) original dental hygiene license number and date of issuance;
- (2) full name;
- (3) street address as of the date of the application;
- (4) telephone number;
- (5) email address;
- (6) citizenship or immigration status, with verifying documentation;
- (7) a statement disclosing and explaining the nature, facts, and disposition of any matter where the applicant has ever:
 - (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor; or
 - (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (8) whether the applicant is under investigation as of the date of the application or has ever been investigated by the Board or any other licensing board;
- (9) whether the applicant has ever had a civil lawsuit related to the practice of dental hygiene settled;
- (10) all dental hygiene licenses from other jurisdictions ever held by the applicant, including dates of licensure;
- (11) a statement disclosing all the applicant's dental hygiene practices, including:

- (A) the dates during which the applicant was employed as a dental hygienist;
- (B) the name and address of each employer; and
- (C) the reason for the termination of each employment;
- (12) a statement disclosing and explaining any current condition or impairment, including a substance use disorder, abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dental hygiene. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dental hygienist as set out in G.S. 90-229(a)(4) and (13). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dental hygienists or other impaired professionals program;
- (13) two letters of character reference from non-family members;
- (14) a copy of a National Practitioner Data Bank report concerning the applicant that was obtained within six months prior to the date the report is submitted to the Board;
- (15) documentation of the applicant's completion of continuing education courses, as set out in 21 NCAC 16I, in amounts equal to the number of hours required for renewal of a dental hygiene license; and
- (16) a copy of an unexpired CPR certificate.
- (b) The applicant shall submit to the Board the notarized application form for reinstatement with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable reinstatement application fee set forth in 21 NCAC 16M .0102(a)(3) and the renewal fees set forth in 21 NCAC 16M .0102(a)(2) and (b).
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been licensed in other states, the applicant shall request the dental regulatory authority or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental hygiene license to send to the Board office, ~~in an unopened envelope sealed by the authority, a sealed envelope or via secure electronic transmission,~~ a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending.
- (d) An applicant whose North Carolina license has been revoked, suspended, retired, or expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history check from the North Carolina State Bureau of Investigation.
- (e) ~~An applicant for reinstatement~~ whose North Carolina dental hygiene license has been revoked, suspended, retired, or expired for two to five years shall ~~take~~ submit to the Board evidence of completion of refresher courses as specified by the Board if the Board determines that the applicant lacks skills or knowledge to practice dental hygiene. Refresher courses for an applicant whose license was revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher courses for an applicant whose license has been retired or expired shall be specified

1 by the Board taking into account the amount of time the license has been retired or expired and the applicant's level
2 of experience.

3 (f) An applicant ~~for reinstatement~~ whose North Carolina dental hygiene license has been revoked, suspended, retired,
4 or expired for more than five years shall pass the American Board of Dental Examiners dental hygiene licensure
5 clinical examinations before seeking reinstatement.

6 (g) The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and
7 the applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be
8 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded
9 as expired without a refund of the application fees.

10 (h) Absent a Board order stating otherwise, an applicant whose North Carolina dental license has been revoked shall
11 not be eligible to:

12 (1) apply for reinstatement for a period of one year after the effective date of the revocation; or

13 (2) re-apply for reinstatement for a period of one year after the Board's denial of the applicant's previous
14 application for reinstatement.

15 (i) An application for reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (h)
16 of this Rule shall be disregarded without a refund of the application fees.

17 ~~(h)(j)~~ Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

18 ~~(i)(k)~~ Any license obtained through fraud or by any false representation shall be revoked.

19
20 *History Note: Authority G.S. 90-223; 90-224; 90-229;*

21 *Eff. September 1, 2014;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
23 *2018;*

24 *Amended Eff. June 1, 2025; September 1, 2020.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0701

DEADLINE FOR RECEIPT: May 13, 2025.

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In reviewing this Rule, the staff recommends the following changes be made:

In line 6, consider adding “general anesthesia or sedation” before “permit.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 16Q .0701 is amended as published in 39:14 NCR 926 as follows:

SECTION .0700 – COMPLIANCE AND REPORTING

21 NCAC 16Q .0701 FAILURE TO COMPLY

(a) Failure to comply with the provisions of this Subchapter may result in suspension or revocation of the permit ~~and/or~~ and the dentist's license to practice dentistry in accordance with G.S. 90-41.

(b) Absent a Board order stating otherwise, a dentist whose permit has been revoked shall not be eligible to:

(1) apply for reinstatement of the permit for a period of one year after the effective date of the revocation; or

(2) re-apply for reinstatement of the permit for a period of one year after the Board's denial of the applicant's previous application for reinstatement.

(c) An application for permit reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (b) of this Rule shall be disregarded without a refund of the application fees.

History Note: Authority G.S. 90-28; 90-30.1; 90-41; 90-48;

Eff. February 1, 1990;

Transferred and Recodified from 16Q .0601 to 16Q .0701;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018-2018;

Amended Eff. June 1, 2025.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16T .0104

DEADLINE FOR RECEIPT: May 13, 2025.

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In reviewing this Rule, the staff recommends the following changes be made:

In (b), line 12, what is meant by “is subject to active suspension?” Consider replacing this language with “has been or will be suspended.” Also, consider adding a comma after “longer” and after “Board” (line 13).

In (c), line 20, consider replacing “if not more than” with “within.”

In (d), I’ve reviewed the emails and documents sent to Mr. Ascher during the pre-review of this Rule. I’m satisfied that your agency has sufficient authority to promulgate this paragraph.

On pg. 2, lines 2 and 4, consider replacing “condition precedent” with “prerequisite.”

Lines 5-6, who will determine if there is “just cause for the abandonment of the patient records”? Would this finding be made by the Board and what standards would be used to make this determination?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 16T. 0104 is adopted as published in 39:14 NCR 926-927 as follows:

21 NCAC 16T. 0104 NOTICE AND TRANSFER OF RECORDS UPON CEASING PRACTICE

(a) Patient Notification Upon Closure of Practice – A dentist who is a sole practitioner and closes a dental practice for reasons other than disciplinary action by the Board shall notify all patients with a pending treatment plan or a scheduled appointment of the closure and consult with the patients on options for continued care and transferring of the patient record to another provider or returning it to the patient. Nothing in this Rule shall alter the dentist’s obligations under Rule .0101 of this Section to retain the patient record unless it is either transferred to another provider or returned to the patient. A dentist shall document the transfer or return of each patient record.

(b) Patient Notification Upon Revocation or Active Suspension of License- Unless an Order of the Board specifies otherwise, a dentist whose license is subject to active suspension for a period of 30 days or longer or is revoked by Order of the Board will notify all patients with a pending treatment plan or a scheduled appointment of the suspension or revocation in not more than 10 days after the effective date of the active suspension or revocation, the reasons for the suspension or revocation, and consequent inability of the licensee to continue treatment after the effective date of suspension or revocation. The dentist shall advise such patients that the patients may seek treatment from another licensed provider if further treatment is required during the period of active suspension or after the revocation. The dentist shall document the notice in the patient record.

(c) Transfer of Patient Records Upon Revocation or Active Suspension of License– A dentist shall not abandon patient records. Unless otherwise specified by Board Order, in not more than 30 days after the effective date of an active suspension or revocation of a license, the dentist shall deliver all patient records in his or her possession for each patient with an ongoing treatment plan or a scheduled appointment either to the patient or to another treatment provider as directed by the patient, or document good faith efforts to do so. A dentist shall not transfer patient records containing confidential information to another treatment provider in a different practice without prior consent from the patient. The dentist shall document the consent to transfer in the patient record and the transfer or return of each patient record.

(d) Transfer of Patient Records to Trustee – If the Board determines that patient records have been abandoned by a dentist, including upon the suspension or revocation of a license or the death or disability of a sole practitioner, the Board may seek a judicial order appointing a licensed dentist to act as trustee of the abandoned patient records. The trustee shall take steps to contact each patient for return or transfer of the patient record. The trustee shall not transfer patient records containing confidential information to another treatment provider without prior consent from the patient, documented in the record. Upon the death of a dentist who is not a sole practitioner, a dentist who is an owner or employed in the same practice as the deceased dentist shall take custody of the deceased dentist’s patient records and notify the patients to arrange for continued care either within the practice or by transferring the patient record to another dentist.

(e) Proof of Compliance - A licensee whose license is subject to active suspension or revoked by Order of the Board shall keep and maintain records of the steps taken under subsections (b) and (c) of this Rule so that, upon any

1 subsequent proceeding, proof of compliance with this Rule and any Order of the Board shall be available for the Board
2 to review. Proof of compliance with subsections (b) and (c) shall be a condition precedent to consideration of any
3 petition for reinstatement or stay of active suspension. If a trustee was appointed for custody of the licensee's patient
4 records in accordance with subsection (d) of this Rule, the petitioner must demonstrate, as conditions precedent to
5 consideration for any petition for reinstatement or stay of active suspension, that there was just cause for the
6 abandonment of the patient records and that the petitioner has paid the trustee or Board for documented expenses
7 incurred in connection with the custody of the abandoned patient records, even when just cause is demonstrated.

8
9 *History Note: Authority G.S. 90-28; 90-41; 90-48; 90-48.1;*

10 *Eff. June 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16W .0101

DEADLINE FOR RECEIPT: May 13, 2025.

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In reviewing this Rule, the staff recommends the following changes be made:

In (a), lines 10-11, is “synchronous teledentistry” defined or regulated in a different rule or law? If so, please provide a citation in this Rule.

In (b), line 14, please add “calendar” before “days.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 16W .0101 is amended as published in 39:14 NCR 927 as follows:

SUBCHAPTER 16W – PUBLIC HEALTH HYGIENISTS

SECTION .0100 - PUBLIC HEALTH HYGIENISTS

21 NCAC 16W .0101 DIRECTION DEFINED

(a) A public health hygienist may perform clinical procedures under the direction of a licensed dentist, as defined by 21 NCAC 16A .0101(9), and in accordance with G.S. ~~90-233(a)~~-90-233(a), provided the dentist ordering the procedure, or another dentist designated by the ordering dentist, is accessible, either in person or via synchronous teledentistry, for consultation while the hygienist is performing clinical procedures, and to provide any follow-up care the dentist determines to be clinically necessary.

(b) The specific clinical procedures delegated to the hygienist shall be completed, in accordance with a written order from the dentist, within 270 days of the dentist's in-person evaluation of the patient.

(c) The dentist's evaluation of the patient shall include a comprehensive oral examination, medical and dental health history, and diagnosis of the patient's condition.

(d) A public health hygienist may provide educational information, such as instruction in brushing and flossing, without the direction of a licensed dentist.

History Note: Authority G.S. 90-223; 90-233(a);

Temporary Adoption Eff. October 1, 1999;

Eff. April 1, 2001;

Amended Eff. April 1, 2016; July 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. June 1, 2025; February 1, 2020.