

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
BARBARA WILLARD**

VW 2020-060

NOTICE OF INTENT TO GRANT PETITION

Petitioner, Barbara Willard, filed a petition for a permanent variance from **Rules 61H1-33.006(2)(a) and 61H1-31.006, Florida Administrative Code (F.A.C.)**, on April 24, 2020. The notice of the petition appeared in the Florida Administrative Register on May 1, 2020, in Volume 46 Number 86. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Florida Board of Accountancy (“Board”) held on May 15, 2020, via teleconference and video conference. Petitioner was present and was not represented by counsel. The Board was represented by Rachelle Munson, Assistant Attorney General. The Petition is incorporated by reference herein and attached to this notice.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner’s license reverted to a delinquent status on January 1, 2019, and she became aware of the status only after the Internal Revenue Service requested a copy of her professional license causing her to contact the Department of Business and Professional Regulation (“Department”) on August 27, 2019 to produce verification.
2. Petitioner states she completed continuing professional education (CPE) requirements by December 2018, personally mailed her license renewal and fee to the Department on December 14, 2018, but later discovered the receipt was not postmarked until January 20, 2019.
3. Petitioner requests a refund of the reactivation fee and a waiver of the additional 24 CPE hours assessed due to the delinquency.
4. Petitioner, accordingly, requests a permanent waiver of Rules 61H1-33.006(2)(a) and

61H1-31 006, F.A C , to the extent necessary for the Board to find that she has met the requirements for renewal in this case

GROUND FOR APPROVAL

The Board determined that the petition for variance should be granted on the following grounds

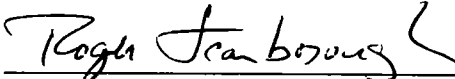
5 Petitioner established that the purpose of the underlying statute, Section 473 305 and 473 313, F S , would be met were she to be granted a variance from Rules 61H1-31 006 and 61H1-33 006(2)(a), F A C regarding licensure renewal and reactivation requirements

6 Petitioner further established that the Board's application of 61H1-31 006 and 33 006(2)(a), F A C, to her circumstances, primarily resulting from a postal processing issue, would violate principles of fairness or impose a substantial hardship on her

It is therefore **ORDERED** that the petition be **GRANTED**. The Board granted the variance finding that Petitioner acted in good faith

This Notice shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation

DONE AND ORDERED this 9 day of June, 2020, by the Florida Board of Accountancy


Roger Scarborough, Division Director ✓
Florida Board of Accountancy

NOTICE OF RIGHT TO HEARING

You may seek review of this Order, pursuant to Sections 120 569 and 120 57, Florida Statutes, by filing a petition with the Division Director of the Board, 240 Northwest 76th Drive, Suite A, Gainesville FL 32607, within 21 days of receipt of this Order. If you dispute any material fact upon which the Board's decision is based, you may request a hearing before an administrative law judge pursuant to Section 120 57(1), FS, your petition must contain the information required by Rule 28-106.201, FAC, a copy of which is enclosed, including a statement of the material facts which are in dispute. If you do not dispute any material fact, you may request a hearing before the Board pursuant to Section 120 57(2), FS, your petition must include the information required by Rule 28-106 301, FAC, a copy of which is enclosed. If you request a hearing, you have the right to be represented by an attorney or other qualified representative, to take testimony, to call or cross-examine witnesses, to have subpoena and subpoena duces tecum issued, and to present written evidence or argument.

Pursuant to Section 120 573, FS, you are hereby notified that mediation pursuant to that section is not available.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U S Certified Mail to **Barbara Willard**, PO BOX 2298, LaBelle, Florida 33975, and to Kenneth Plante, Chief Attorney, Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 W Madison Street, Tallahassee, Florida 32399-1400, and by electronic delivery to Rachelle Munson, Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com this 15th day of June, 2020.



T-871
 FAX: 352
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FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/24/2020
File #	

PETITION FOR WAIVER OR VARIANCE OF BOARD OF ACCOUNTANCY RULE(S)

Petitioner Information:

Barbara N. Willard AC0019170
 PO Box 2298
 LaBelle, FL 33975
 Office: (863) 675-0779

RECEIVED
 APR 24 2020

**DIVISION OF CERTIFIED
 PUBLIC ACCOUNTING**

Attorney Information:

I have not retained counsel in this matter.

Applicable Portions of the Rule(s):

VW 2020-060

1. CPE hours required by Rule 61H1-33.006(2)a
2. Reactivation Fee Rule 61H1-31.006

The citation to the statute the rule is implementing:

Section 120.542, Florida Statutes, and Rule 28-104.002

Type of Action Requested:

Petitioner paid license renewal fee of \$90 on December 14, 2018, and paid \$275 delinquency/reactivation fee on August 27, 2019.

Consider Petitioner timely filed, refund \$275 reactivation fee and not require additional 24 CPE hours and proof of same.

Specific facts that demonstrates a violation of the principles of fairness that would justify a variance for the petitioner:

Petitioner is a licensed certified public accountant whose license reverted to Delinquent status on January 1, 2019. Petitioner completed an additional 16 CPE hours by December 12, 2018, because she had overlooked completing the required hours by June 30, 2018. Once the additional CPE hours were complete, she mailed her license renewal and fee to Florida Department of Business and Professional Regulation, on December 14, 2018.

Petitioner called the Department of Business and Professional Regulation on August 27, 2019, after the Internal Revenue Service asked for verification of professional status, and Petitioner found her license had reverted to delinquent. She was informed the license renewal and check for payment of the licensing fee was postmarked January 20, 2019.

not by the December 31, 2018 renewal deadline. Petitioner contends she personally mailed the renewal on December 14, 2018, at the LaBelle, FL, US Post Office.

Having done what was required to renew the license: (1) completed 96 CPE hours by December 31, 2018, and (2) sent in the \$90 license renewal fee, it certainly would not be fair to penalize my licensing for an United States Post Office postmark error, when in fact the renewal was timely mailed on December 14, 2018.

The reason why the variance requested would serve the purpose of the underlying statute:

473.305 – Required CPE hours were timely completed and fee was timely mailed and paid, but not postmarked due to an administrative error of the US Post Office. Petitioner initiated payment timely and correctly.

473.313 – Petitioner would not have been considered Delinquent had the payment been timely postmarked by the US Post Office.

Petitioner Statement:

Petitioner is requesting a waiver of the applicable rule(s).

Respectfully Submitted,



Barbara N. Willard