

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
BIANA MURNANE**

VW 2021-073

NOTICE OF INTENT TO DENY PETITION

Petitioner, Biana Murnane, filed a petition for a permanent variance from **Rules 61H1-33.006(2), Florida Administrative Code (F.A.C.)**, on May 5, 2021. The notice of the petition appeared in the Florida Administrative Register on May 14, 2021, in Volume 47 Number 94. 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 June 18, 2021, via telephone and video conference. Petitioner was present at the proceeding 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 5, 2021, as a result of failing to timely renew her license.
2. Rule 61H1-33.006(2), F.A.C., states:
Each such application shall demonstrate successful completion of the required number of continuing professional education hours as follows.
Accounting/Auditing – At least 30 hours
Ethics – At least 8 hours
Behavioral – No more than 30 hours
Total Hours – 120 hours.
3. Petitioner asserts she timely completed the CPE hours as of June 30, 2020 but failed to timely renew the license, noting she did not receive a notice of renewal.
4. Petitioner, as a result of the delinquency and in addition to the CPE requirements to maintain a current active license, is also required to comply with the requirement to complete an

additional 40 CPE penalty hours with related penalty fees.

5. Petitioner acknowledged that it was her responsibility to timely renew.

6. Petitioner, accordingly, requests a permanent variance of Rules 61H1-33.006(2), F.A.C., to the extent necessary for the Board to find that she has met the requirements for renewal without penalty in this case.

GROUND FOR DENIAL

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

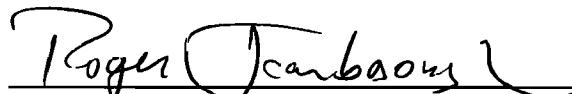
7 Petitioner did not establish that the purpose of the underlying statute, Section 473.305 and 473.313, F.S., would be met were she to be granted a variance from 61H1-33.006(2), F.A.C. and related fees regarding licensure renewal and reactivation requirements.

8. Petitioner further did not establish that the Board's application of Rule 61H1- 33.006(2), F.A.C, to her circumstances would violate principles of fairness or impose a substantial hardship on her.

It is therefore **ORDERED** that the petition is **DENIED**. The Board denied the petition with consideration given to the Petitioner's acknowledgement that it was her responsibility to timely renew her license.

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

DONE AND ORDERED this 19th day of July, 2021, 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 **Biana Murnane**, 800 Cypress Pointe Drive, Pembroke Pines, FL 33027; 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 and Cassandra Fullove, Paralegal, at Cassandra.Fullove@myfloridalegal.com this 26th day of July, 2021.

Brandon M. Nichols

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	5/5/2021
File #	

RECEIVED

MAY 05 2021

**Florida Division of
Certified Public Accounting**

May 5, 2021

Re: Petition for variance from Rule 61H1-33.006(2)

Petitioner: Biana Murnane
800 Cypress Pointe Drive East
Pembroke Pines, FL 33027
Biana.murnane@bscu.org
954-612-0111

VW 2021-073

Dear Florida Board of Accountancy,

I am writing to you to seek a variance from Rule 61H1-33.006(2) that requires 40 additional penalty hours of CPE for a delinquent status reactivation. This letter is regarding my license renewal for the 2020 renewal period. I have been a Florida CPA in good standing since 2005, always completing my CPE timely and paying for the renewals upon receiving notice from the Department of Business and Professional Regulation. As I have every renewal period since 2005, I have timely completed my CPE hours as of June 30, 2020 and was awaiting notice for renewal. Unfortunately, I never received any notification about the renewal or when the renewal could be processed online through the portal. On March 30th of this year, I was reviewing my CPA records and noticed that I didn't have a confirmation email for payment of my renewal. Upon further investigation into my license on the DBPR site, I noticed that my license was in a delinquent status. I scoured through all of my email inbox, junk mail, and trash to determine how I could have possibly missed the communications that have always come to my inbox for renewal. I couldn't locate a single communication. I immediately paid the fees and penalty fees on the 30th and waited a couple of days to see that my status had been updated. On April 1st, I sent a Contact Us email through the portal to inquire what had occurred. I didn't receive any correspondence, so on April 5th I contacted DBPR by telephone and spoke to a Yuliza (I apologize if I spelled her name wrong) who told me that there was a glitch and the email notifications did not go out to all the licensees. She mentioned many calls were being received throughout the first quarter of this year by CPAs who were not notified about their renewal. We verified my email address and the address on file was correct. She told me I would need to submit a CPA-7 form and CPE Reporting Form with the certificates verifying that I completed all of my CPE timely by June 30, 2020. I provided all of this information on April 6th for the 88 hours I had completed by June 30, 2020. On April 15th, I received an email stating that I would be further penalized by being required to take an additional 32 hours of CPE and that this would not be counted toward my 2022 renewal.

I can assure you the lack of payment for non-renewal was an inadvertent oversight last year at a time when the world was facing a pandemic and many challenges. Although I understand this is my responsibility, there has never been a past year in which I had not received notification from the DBPR, as reflected in my timely payments. I have added future renewals to my Outlook Calendar and will not solely rely on notification from DBPR to ensure something like this never happens again. I am requesting for this to be a one-time variance from the reactivation rule penalty 40 CPE hour requirement. I am asking for your consideration in reviewing my situation for what appears to be a harsh position to not only have to incur excessive penalty fees, but additional time and costs for additional penalty CPE hours because of an honest mistake. Please let me know if I may provide any additional information for your consideration. I can be contacted at biana.murnane@bscu.org or 954-612-0111.

Best Regards,

Biana Murnane