

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
DANIEL HOEFT**

NOTICE OF INTENT TO GRANT PETITION

VW 2021-092

Petitioner, Daniel Hoeft, filed a petition for a permanent variance from **Rules 61H1-33.006(1), Florida Administrative Code (F.A.C.)**, on June 15, 2021. The notice of the petition appeared in the Florida Administrative Register on July 2, 2021, in Volume 47 Number 128. 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 August 6, 2021, in Tampa, Florida. Petitioner was present at the proceeding and was not represented by counsel. The Board was represented by Rachele 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. Rule 61H1-33.006(1), F.A.C., in relevant part, states

Each Florida certified public accountant who has requested inactive status or became delinquent, as distinguished from a Florida certified public accountant whose certificate or license has been suspended, who desires to become an active Florida certified public accountant, i.e., engage or reengage in the practice of public accounting in Florida, shall apply for such reactivation by completing and submitting to the Department Form DBPR CPA 7 – CPA Change of Status Application...However, if a license is delinquent on January 1 for failure to comply with Rule 61H1-33.003, F.A.C., through failure to report compliance with continuing professional education requirements by the immediately prior December 31st, a Florida certified public accountant may reactivate, pursuant to Section 473.311, F.S., by certifying the required hours have been completed, paying the fees required by Rules 61H1-31.003, 31.004 and 31.006, F.A.C., by March 15 of the same year of the delinquency.

2. Petitioner asserts he completed the Continuing Professional Education (CPE) hours as of June 30, 2020, paid all applicable fees on April 23, 2021, and submitted a summary of completion in May 2021 to the Department.

3 Petitioner asserts he inadvertently overlooked the renewal deadline of December 31, 2020, resulting in the license becoming delinquent.

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 additional CPE penalty hours with related penalty fees.

5 Petitioner states that 2020 was an especially challenging year due to the global pandemic but acknowledged that it was his responsibility to timely renew

6. Petitioner, accordingly, requests a permanent variance of Rules 61H1-33.006(1), F A C , to the extent necessary for the Board to find that he has met the requirements for renewal without penalty in this case.

GROUND FOR APPROVAL

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

7. Petitioner established that the purpose of the underlying statute, Section 473.305 and 473 313, F.S., would be met were he to be granted a variance from 61H1-33 006(1), F.A.C., regarding licensure renewal and reactivation requirements

8. Petitioner further established that the Board's application of Rule 61H1-33.006(1), F.A.C, to his circumstances would violate principles of fairness or impose a substantial hardship on him.

It is therefore **ORDERED** that the petition is **GRANTED**.

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

DONE AND ORDERED this 20 day of August, 2021, by the Florida Board of Accountancy.

Florida Board of Accountancy


Roger Scarborough
Director, Division of Certified Public Accounting

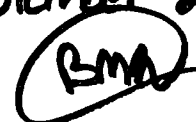
NOTICE OF RIGHT TO HEARING

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 Daniel Hoefft, 4300 South Beach Parkway, Apt #4305, Jacksonville Beach, Florida 32250; 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 Rachele Munson, Assistant Attorney General, at Rachele.Munson@myfloridalegal.com and Cassandra Fullove, Paralegal, at Cassandra.Fullove@myfloridalegal.com this 20th day of August, 2021.

September 2, 2021




FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/15/2021
File #	

RECEIVED

JUN 15 2021

**Florida Division of
Certified Public Accounting**

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

Petitioner Information:

Daniel Robert Hoeft AC46345
4300 South Beach Parkway
APT #4306
Jacksonville Beach, FL 32250
daniel.hoeft@gmail.com
(561) 797-3754

VW 2021-092

Attorney Information:

I have not retained counsel in this matter.

Applicable Portion of the Rule(s):

The requirement to complete Form DBPR CPA 7 – CPA Change of Status Application per Rule 61H1-33.006(1), F.A.C. which states:

(1) Each Florida certified public accountant who has requested inactive status or became delinquent, as distinguished from a Florida certified public accountant whose certificate or license has been suspended, who desires to become an active Florida certified public accountant, i.e., engage or reengage in the practice of public accounting in Florida, shall apply for such reactivation by completing and submitting to the Department Form DBPR CPA 7 – CPA Change of Status Application. However, if a license is delinquent on January 1 for failure to comply with Rule 61H1-33.003, F.A.C., through failure to report compliance with continuing professional education requirements by the immediately prior December 31st, a Florida certified public accountant may reactivate, pursuant to Section 473.311, F.S., by certifying the required hours have been completed, paying the fees required by Rules 61H1-31.003, 31.004 and 31.006, F.A.C., by March 15 of the same year of the delinquency.

The citation to the statute the rule is implementing:

Section 473.305, 473.312, and 473.313, F.S.

Type of Action Requested:

To waive the requirement to complete Form DBPR CPA 7 and to return petitioner's CPA license to a current and active status.

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

My license is delinquent because I failed to report by 12/31/2020 my timely completion of the continuing professional education (CPE) requirements of 473.312, F.S. and Rule 61H1-33.003, F.A.C. I completed the foregoing CPE requirements by 6/30/2020 and submitted on 5/20/2021 to the Florida Board of Accountancy a summary schedule of all CPE courses completed as well as

all of the associated CPE certificates supporting my timely completion of these courses. I also paid on 4/23/2021 all of the fees described in Rules 61H1-31.003, 31.004, and 31.006, F.A.C. At this point, in order to return my license to a current and active status, Rule 61H1-33.006(1), F.A.C. requires that I complete Form DBPR CPA 7. Based on the portion of the instructions for Form DBPR CPA 7 which relate to Rule 61H1-33.006(2)(3), I am required to complete a total of 120 CPE hours, all of which must be completed no more than 24 months immediately preceding the date of the application for reactivation. For me personally, this translates to a requirement to complete an additional 70 CPE hours since only 50 of my 82 CPE credits earned during the period from 7/1/2018 to 6/30/2020 would be within the 24 months window.

2020 was a particularly challenging year in light of the global pandemic. I currently serve as the Assistant Corporate Controller at a company in the critical transportation services sector. We have been working tirelessly on site at the office throughout the entirety of the pandemic. Amidst the very unique challenges faced in 2020, I overlooked my renewal.

I believe the literal application of Rule 61H1-33.006(1), F.A.C. affects me in a manner that significantly differs from the way it would affect others who are similarly situated and subject to the same rule because I would forfeit a significant amount of CPE credits. For example, a licensee who has intentionally been inactive for a couple years, not taken any CPE courses, and who desires to become an active licensee once again would complete Form DBPR CPA 7 and take the 120 CPE hours. However, in my circumstance, I have to complete a total of 152 CPE hours (82 hours completed during the period from 7/1/2018 to 6/30/2020 plus the additional 70 hours discussed above) to return my license to a current and active status. The cost of purchasing these additional CPE courses and the time required away from work to complete the courses pose a significant burden. And it appears to be a uniquely significant burden.

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

473.305 Fees – The fees discussed in 473.305, F.S. and implemented by Rules 61H1-31.003, 31.004, and 31.006, F.A.C. are one component of the requirements of Form DBPR CPA 7. I paid all of these fees in full on 4/23/2021 in the amount of \$380.

473.312 Continuing education – I was in compliance by 6/30/2020 with the CPE requirements outlined in Rule 61H1-33.003, F.A.C. I submitted on 5/20/2021 to the Florida Board of Accountancy a summary schedule of all CPE courses completed as well as all of the associated CPE certificates supporting my timely completion of these courses.

473.313 Inactive status – 473.313(2), F.S. outlines the requirements of reactivating an inactive license, which states “The maximum continuing education requirements for reactivating a license are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board, for the reactivation of a license that is inactive or delinquent.” These requirements are implemented by Rule 61H1-33.006(1), F.A.C., through Form DBPR CPA 7. I could be considered to meet the foregoing requirements of 473.313(2), F.S. without completion of Form DBPR CPA 7. The 120 hours requirement is defined as a maximum in the statute, not a minimum, and I completed 82 CPE credits during the period from 7/1/2018 to 6/30/2020. I completed 67.5 CPE credits in the accounting and auditing fields of study. I did not complete more than 30 hours in behavioral subjects. And I completed 8 hours in ethics subjects,

if, in addition to my completion of the Ethics and Professional Conduct for Florida CPAs course offered through PES, my 4 other ethics and independence related courses were to formally apply to the ethics category. A full list of all of my CPE courses and certificates of completion were included within my 5/20/2021 correspondence. Lastly, I believe this petition's request is within the reasonable limits of the discretion granted by 473.13(5), F.S , given the totality of the facts and circumstances discussed throughout this petition for reactivation. As such, the variance requested would serve the purpose of 473.313, F.S.

Petitioner Statement:

I am respectfully and humbly seeking a permanent waiver from Rule 61H1-33.006(1), F.A.C.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Daniel Hoefl", with a stylized flourish at the end.

Daniel Hoefl