

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
JOHN L. LANCIANESE, JR.**

NOTICE OF INTENT TO DENY PETITION

VW 2021-105

Petitioner, John Lancianese, Jr., filed a petition for a permanent variance from **Rules 61H1-33.006(1), (2), Florida Administrative Code (F.A.C.)**, on June 25, 2021. The notice of the petition appeared in the Florida Administrative Register on July 8, 2021, in Volume 47 Number 131. 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 not 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. 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 asserted in the petition that he began working from home in 2020 due to the COVID 19 virus

4. Petitioner further asserted he lives in a rural area with unstable Internet and unreliable postal services

5. Petitioner claimed he did not receive a renewal notice and acknowledged in the petition that he did not timely renew his license.

6 The license reverted to a delinquent status on January 1, 2021.

7 Petitioner, as a result of the delinquency and in addition to the CPE requirements to maintain a current active license, is required to comply with the requirement to complete CPE penalty hours with related penalty fees.

8 Petitioner asserted that as a sole practitioner without an active license, he will not be able to make a living.

9 Petitioner, accordingly, requests a permanent variance of Rules 61H1-33.006(1), (2), 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 DENIAL

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

10. Petitioner did not establish 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), (2), F.A.C , regarding licensure renewal and reactivation requirements.

11 Petitioner further did not establish that the Board's application of Rule 61H1-

33.006(1), (2), 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 **DENIED**.

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

DONE AND ORDERED this 20th 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 **John Lancianese, Jr.**, 7405 Park Lane Rd., Lake Worth, Florida 33449, 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 ~~20th~~ day of ~~August~~, 2021.

September 2, 2021
Bma

Brandon M. Nichols

RECEIVED

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/25/2021
File #	

JUN 25

Florida Division of Certified Public Accounting

PETITION FOR WAIVER OF RULE 61H1-33.006 (1)(2) FLORIDA ADMINISTRATIVE CODE

Petitioner Information :

John L. Lancianese, Jr., CPA **AC0019852**
 7405 Park Lane Rd.
 Lake Worth, Florida 33449
 (561)248-1298
 johnl@jlancpa.net

VW 2021-105

Attorney Information:

I have not retained counsel in this matter.

Applicable Portions of the Rule(s):

1. CPE hours (120) required by Rule 61H1-33.006(1)(2)

The citation to the statute the rule is implementing:

Section 473.312, Florida Statutes, Rule 28-104.002

Type of Action Requested:

Waiver of 120 hour CPE requirement.

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

Petitioner is a licensed certified public accountant whose license, unknowingly, reverted to Delinquent status on January 1, 2021. Petitioner's re-establishment period is currently July 1, 2020 - June 30, 2022. CPE requirements (80 hours) have been met in all periods prior to this one and will be met during this current period. In February of 2020, the world became aware of the COVID-19 virus. This affected the petitioner's business practices forcing the petitioner to work directly from home. Petitioner lives in a rural area with unstable internet and undependable postal service. Notice for license renewal was never received and subsequently, the license was not renewed timely.

Petitioner, once aware of the delinquent status, contacted the Board of Accountancy, via written correspondence of June 15, 2021, and was directed by the division director to file a formal petition. Petitioner is a sole practitioner and without an active license will not be able to make a living. Petitioner's practice has already been decimated by COVID.

JUN 25 2021

Florida Division of
Certified Public Accounting

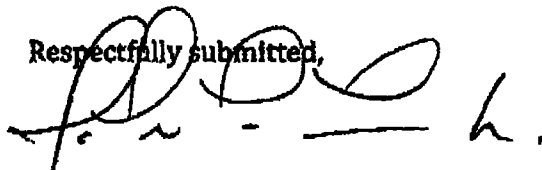
The reason why the variance requested would serve the purpose of the underlying statute:

Section 473.312 - Required CPE hours were timely completed for the prior re-establishment period 7/1/18 - 6/30/20 and will be completed for the petitioner's current re-establishment period 7/1/20 - 6/30/22.

Petitioner Statement:

Petitioner is requesting a waiver of the applicable rule in regard to 120 CPE requirement upon reactivation. Petitioner's CPE requirement in the current re-establishment period will be met and there was never an intent, by the petitioner, to make his license inactive. Petitioner, in 34 years a Florida CPA, has always met his CPE requirements, renewed his license timely, and performed his engagements in a professional and ethical manner. In light of the current situation throughout our world, (Pandemic), concessions have been made, extensions have been granted and compassion has been exhibited. I respectfully request this waiver be granted.

Respectfully submitted,



John L. Lancianese, Jr.