

STATE OF FLORIDA  
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR VARIANCE BY  
TAIMI CABRERA HERNANDEZ

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/6/2019
File #	2019-01971

ORDER GRANTING PETITION

**VW 2019-001**

Petitioner, Taimi Cabrera Hernandez, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on January 2, 2019. The Notice of the petition appeared in the Florida Administrative Register on January 7, 2019, in Volume 45 Number 04. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on February 1, 2019, in Orlando, Florida. At the hearing on this matter, Petitioner was present. The Board was represented by Rachelle Munson, Assistant Attorney General. The petition is attached herein and incorporated by reference.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. **Rule 61H1-28.0052(1)(b), F.A.C.**, provides in pertinent part:

Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed.

2. Petitioner passed the REG portion of the CPA examination on February 6, 2017, and credit for that portion of the examination expired on August 6, 2018. Petitioner passed the BEC portion of the examination on December 18, 2017, and credit for that portion of the examination will expire on June 18, 2019. Petitioner passed the AUD portion of the examination on March 7, 2018, and credit for that portion of the examination will expire on September 7, 2019. Petitioner passed the FAR portion of the CPA examination on December 10, 2018, and credit for that portion of the examination will expire on June 10, 2020.

3. During the 18-month window, Petitioner states that due the CPA examination changes

which came into effect during the Q2 testing window, led to a delay in the amount of time needed to wait for examination results. Prior to taking an examination, it was cancelled due to Hurricane Irma. Petitioner also experienced a "high risk" pregnancy during the 18-month window. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four (4) months and four (4) days beyond the eighteen months provided in the rule to retain the passing scores on the REG portion of the examination, when she passed the fourth portion of the examination on December 10, 2018.

### **GROUND FOR APPROVAL**

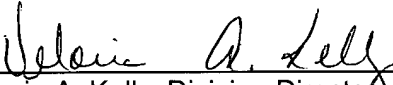
The Board determined the petition should be granted on the following grounds:

4. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), F.A.C., to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

5. Petitioner established that, if she were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, F.S.

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

**DONE AND ORDERED** this 27<sup>th</sup> day of February, 2019, by the  
Florida Board of Accountancy.

  
\_\_\_\_\_  
Veloria A. Kelly, Division Director

### **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 76<sup>th</sup> 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), Florida Statutes; your petition must contain the information required by Rule 28-106.201, Florida Administrative Code, 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), Florida Statutes; your petition must include the information required by Rule 28-106.301, Florida Administrative Code, 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, Florida Statutes, 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 **Taimi Cabrera Hernandez**, 929 SW 143<sup>rd</sup> Avenue, Pembroke Pines, Florida 33027, and to Kenneth Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and by electronic delivery to: Rachelle Munson, Assistant Attorney General, at [Rachelle.Munson@myfloridalegal.com](mailto:Rachelle.Munson@myfloridalegal.com) this 6<sup>th</sup> day of March, 2019.

Brandon M. Nichols

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/2/2019
File #	

**PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b):**

**Petitioner Information:**

Taimi Cabrera Hernandez  
929 SW 143<sup>RD</sup> Ave  
Pembroke Pines; FL 33027  
Phone: (305)409-0841  
Email: [taimi003@yahoo.es](mailto:taimi003@yahoo.es)  
Application No. 398691  
Jurisdiction ID: Florida 01447251  
National Candidate Id: 0000000000753505

**VW 2019-001**

**Applicable Portions of the Rule(s):**

61H1-28.0052(1)(b): Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

Candidate must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed outside the eighteen-month period will expire and that test section(s) must be retaken.

**The Citation to the statute the rule is implementing:**

Section 473.306 - Examinations

**Type of Action Requested:**

The petitioner requests that the Board of Accountancy please waive rule 61H1-28.0052(1)(b), FAC stated above due to the following circumstances.

**Specific fact that demonstrate a violation of the principles of fairness that would justify statute:**

In 2017, the CPA Exam changes came into effect during the Q2 testing window. This change led to a delay in the amount of time needed to wait in order to receive exam results. The petitioner took the BEC exam during May of 2017, but had to wait until August of 2017 to find out she had failed the exam. During the time waiting for the BEC results, the petitioner began studying for the AUD exam, which was planned to be taken on September 8th, 2017. Regrettably, the appointment at Prometric<sup>1</sup> had to be canceled due to Hurricane Irma making landfall in South Florida on September 11th, 2017. Due to the short notice, lack of appointment availability, and overcrowding the petitioner was not able to reschedule the appointment until about a month later. As a result, the aforementioned events did not allow her to have the time necessary to review the BEC material. When she was able to begin preparing for BEC again, the petitioner was expecting her first child. Unfortunately, the doctor deemed it a "high risk pregnancy" which required more precautions and testing. Additionally, she was employed as a staff accountant at a Fortune 500 company and had begun the annual busy season. The petitioner struggled but was able to take the time necessary to study and pass the BEC exam in November of 2017.

By the time 2018 rolled around the petitioner was studying for the AUD exam with plans of taking it in February of 2018. This was even more challenging due to the newly enacted Tax Reform<sup>3</sup>. The reform brought a lot of changes to her department (international transactions). Furthermore, the change affected the first quarter financials causing management to require more hours of work from their employees, and the Vice-President of Tax committed suicide leading to a shake-up in the upper management of the organization. At this point in time, the petitioner was 30 weeks pregnant not being able to rest as required in her condition due to severe back pain, the grief for the loss of an irreplaceable boss and extraordinary human-being, and an endless work overload and overtime.

In May 2018, at 32 weeks of pregnancy, she took FAR for the first time. Just a few weeks later, on June 20th, 2018<sup>2</sup>, she gave birth to her daughter, and a week after that, found out that had failed. Desperation

began to set in because the REG exam already passed was set to expire in August of 2018. The petitioner didn't want to blame her failure on her pregnancy, her baby, or all the other events mentioned above as reasons why she had failed her dream of becoming a CPA. She managed to take the FAR exam again in August of 2018. Unfortunately, she received a 73 and was not given credit. At this point, whether due to the post-pregnancy changes, sleep deprivation, and taking care of a newborn, she was at the point of exhaustion. In September of 2018, the petitioner returned to work from maternity leave and was in the middle of busy season again. She continued to push herself and took the FAR exam in October of 2018 for the third time, passing and completing the fourth and final part to become a CPA.

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

The petitioner has passed all four parts of the CPA exam but lost credit for one section due to the change to the CPA exam, Hurricane Irma and the Tax Reform. To the petitioner's knowledge, he has met all the education requirements and is of good moral character.

**Petitioner Statement:**

The petitioner respectfully seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC and requests the window to be extended, which would allow the lost Regulation credit to be reinstated. Once this credit is reinstated, the petitioner has successfully passed all four parts within the allotted time.

I appreciate in advance the consideration of my case

Kind Regards,

Taimi Cabrera Hernandez  
Phone: (305)409-0841  
Email: [taimi003@yahoo.es](mailto:taimi003@yahoo.es)

<sup>1</sup>Prometric Cancellation Notice attached.

<sup>2</sup>Birth Certificate attached.

<sup>3</sup>The President, on December 22, 2017, signed into law H.R. 1, originally known as the Tax Cuts and Jobs Act. Public Law No. 115-97 represents the culmination of a lengthy process in pursuit of business tax reform over the course of more than 20 years.