

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
SANDRA TORRES**

VW 2019-024

NOTICE OF INTENT TO GRANT PETITION WITH CONDITIONS

Petitioner, Sandra Torres, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on February 4, 2019. The Notice of the petition appeared in the Florida Administrative Register on February 15, 2019, in Volume 45 Number 32. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on March 22, 2019, in Gainesville, Florida. Petitioner was present for the proceeding. 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. **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 AUD portion of the CPA examination on September 8, 2016, and credit for that portion of the examination expired on March 8, 2018. Petitioner passed the FAR portion of the examination on March 20, 2017, and credit for that portion of the examination expired on September 20, 2018. Petitioner passed the REG 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 BEC portion of the CPA examination on December 18, 2018, and credit for that portion of the examination will expire on June 18, 2020.

3. During the 18-month window, Petitioner states that CPA examination changes which came into effect during the Q2 2017 testing window led to score release delays. Petitioner further states that in September 2017 the impact of Hurricane Irma resulted in the county being deemed a disaster recovery zone, leaving her without electricity. Petitioner also asserts she had an unexpected medical procedure, leading to a longer recovery period and the postponement of study preparation time for the examination. Petitioner states that her workload, work schedule, and lifestyle balancing efforts also contributed to her examination preparation and passage ability. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of nine (9) months and ten (10) days beyond the eighteen months provided for in the rule to retain the passing score on the AUD portion and two (2) months and twenty-eight (28) days outside the eighteen-month window to retain the passing score for the FAR portion of the examination.

CONDITIONS FOR APPROVAL

The Board determined the petition should be granted with the following condition:

4. Petitioner must take the AUD portion of the examination by May 31, 2019 and pass that portion of the examination by successfully completing the test on a date not to exceed May 31, 2019.

GROUND FOR APPROVAL

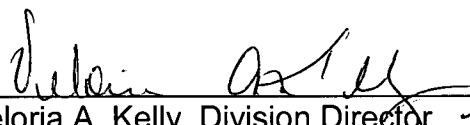
5. Petitioner established that the Board's full application of Rule 61H1-

28.0052(1)(b), F.A.C. to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

6. Petitioner established that, if she were granted the variance under the condition stated for approval, the purpose of the accountancy examination statute would be met as required by Section 473.306, F.S.

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

DONE AND ORDERED this 16th day of April, 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 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), 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 **Sandra Torres**, 3633 NW 20th Avenue, Okeechobee, FL 34972, 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 this 19th day of April, 2019.

Brandon M. Nichols

FILED

Department of Business and Professional Regulation

Deputy Agency Clerk

CLERK Brandon Nichols

Date 2/4/2019

File #

**PETITION FOR VARIANCE FROM RULE 61H1-28.00521(1)(b)
18 Month Rule****Petitioner Information:**

Name: Sandra Torres
Address: 3633 N.W. 20th Avenue, Okeechobee, FL 34972
Phone Number: (863) 697-6082

Attorney Information:

Not Applicable.

VW 2019-024**Applicable Portions of the rules:**

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

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. In the event all four test sections for 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 - Examination

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 a variance for the petitioner:

The petitioner has been a partner of a Certified Public Accounting firm since 2016, which is also the year the petitioner started preparing for her CPA exams. The petitioner's management position at the accounting firm requires her focus to be involved in daily business strategic decisions. The position also requires 55+ hours a week, even during the off-season.

In addition, the petitioner's significant other had to relocate due to work-related circumstances in April 2016. The relocation of her significant other is hours away from their main home, which made it difficult for her significant other to commute back and forth from work every day. In June 2016, when the petitioner started her journey to becoming a CPA, she soon discovered that she would have to conquer the difficult life style balance of being a working mother to a 4 year old daughter along with the similar circumstances of being a single working mother. Her significant other's work schedule added to these circumstances. In November 2016, the petitioner learned that she was expecting her 2nd child. In July 2017, the petitioner had to have an unexpected cesarean section for the delivery of her daughter. This medical emergency lead to a longer recovery, which postponed study time for CPA preparation.

PETITION FOR VARIANCE FROM RULE 61H1-28.00521(1)(b)
18 Month Rule

In April 2017, the American Institute of Certified Public Accountants (AICPA) made important updates to the CPA exam. The exam updates resulted in delays for the 2nd quarter 2017 release score dates. Lastly, in September 2017, Hurricane Irma made landfall in Florida. The petitioner had to spend time on storm preparation. The storm left many individuals, including the petitioner, without electricity. The petitioner's county was deemed a disaster recovery zone by the government.

All of these demanding factors had a main impact on the petitioner's availability of study time. The petitioner's AUD and FAR sections of the CPA exam expired as of March 8, 2018 and September 20, 2018, respectively.

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

The petitioner is of good moral character. The petitioner will meet all education requirements by the Summer 2019 semester.

Petitioner Statement:

The petitioner seeks a permanent variance from Rule 61H1-28.00521(1)(b), F.A.C.