

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/11/2018
File #	2018-04436

**IN RE: PETITION FOR VARIANCE BY
JESSIE KNIGHT DELOACH**

VW 2018-050

ORDER GRANTING PETITION

Petitioner, Jessie Knight DeLoach, filed an emergency petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on March 28, 2018. The Notice of the petition appeared in the Florida Administrative Register on April 4, 2018, in Volume 44 Number 66; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on May 4, 2018, in Orlando, Florida. At the hearing on this matter, Petitioner was present. The Board was represented by Mary Ellen Clark, Senior Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for licensure as a certified public accountant (CPA).
2. Rule 61H1-28.0052(1)(b), FAC, provides in 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."
3. Petitioner passed the AUD portion of the CPA examination on June 7, 2016, and credit for that portion of the examination expired on December 7, 2017. Petitioner passed the REG portion of the CPA examination on November 3, 2016, and credit for that portion of the examination expired on May 3, 2018. Petitioner passed the BEC portion of the examination on September 18, 2017, and credit for that portion of the

examination will expire on March 18, 2019. Petitioner passed the FAR portion of the examination on March 19, 2018, and credit for that portion of the examination will expire on September 19, 2019.

4. During the 18-month window, Petitioner states that she was scheduled to take the FAR section of the examination on September 10, 2017 and was notified on September 8, 2017 that the examination was cancelled due to Hurricane Irma. Petitioner was unable to reschedule the examination to count in the third testing period. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of three (3) months and twelve (12) days beyond the eighteen months provided in the rule to retain the passing scores on the AUD portion of the examination, when she passed the fourth portion of the examination on March 19, 2018.

GROUND FOR APPROVAL


The Board determined that Petitioner did not demonstrate she would suffer an immediate adverse effect unless the variance was issued more expeditiously than the time frames provided in Section 120.542, Florida Statutes (FS), and thus, the situation was not an emergency. The Board determined the petition should be granted on the following grounds:

5. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to her circumstances would violate principles of fairness and would impose a substantial hardship on her. Even though Petitioner filed an Emergency Petition for Variance, the Board determined that the petition was not an emergency.

6. 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, FS.

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

DONE AND ORDERED this 31st day of May, 2018,
by the Florida Board of Accountancy.



Veloria A. Kelly, Division Director

NOTICE TO APPLICANT

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 Jessie Knight DeLoach, 201 Pindo Palm Drive, Ponte Vedra, Florida 32081, and to Kenneth J. Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 11th day of June, 2018.

Brendon M. Nichols

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Jonathan Zachem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Paul Waters, Deputy Secretary

FROM: Veloria A. Kelly, Director /s/ *Veloria A Kelly*

SUBJECT: Delegation of Authority

DATE: May 23, 2018

I, Veloria Kelly, hereby delegate to Angela Francis, signature authority in my absence on May 24-31, 2018.

All documents signed on my behalf should have a copy of this Delegation of Authority attached.

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/28/2018
File #	

EMERGENCY PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
18 Month Rule

VW 2018-050

Petitioner Information:

Name: Jessie Knight DeLoach (Formerly: Jessie Maria Knight)
Address: 201 Pindo Palm Drive Ponte Vedra, FL 32081
Phone Number: (904) 716-3983

Attorney Information:

Not Applicable

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BY:

Applicable Portions of the rules:

61H1-28.0052(1)(b) Number of Sittings, and Granting 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 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- 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 had scheduled to take Financial Accounting and Reporting (FAR) on September 10, 2017. She was notified by the testing center on September 8th that the exam was cancelled due to Hurricane Irma and that she would not be able to reschedule the exam to count in the third testing period. The petitioner lives in St. Johns County and the exam was scheduled in Duval County both of which were under evacuation orders and were cited by the government as disaster relief zones.

The petitioner planned to have two testing periods to take and pass the last section of the CPA examination before her Audit and Attestation exam score expired on December 7, 2017. She did not pass FAR on her first attempt during the fourth testing period of 2017 and her auditing score expired. The petitioner retook FAR in the first testing period of 2018 and passed the exam.

She was able to complete the exam within the two testing periods as originally planned, but was unable to do so within the 18 month period due to the cancellation for inclement weather. All

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four exams have been completed and the petitioner has applied for licensure pending this petition. The petitioner has been working in public accounting at a certified public accounting firm for a year and a half and was able to study for and pass FAR during her "busy season."

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

To the petitioner's knowledge, she has met all the education and experience requirements and is of good moral character. All sections of the exam were passed and the petitioner was unduly disadvantaged because she was not allowed to take the exam in the third testing period due to conditions that were outside of her control.

Petitioner Statement:

The petitioner seeks a permanent variance from Rule 61H1-28.0052(1) (b), F.A

Specific facts that make the situation an emergency:

An emergency petition is requested because the petitioner's Regulation exam section will expire on May 3, 2018, if the petitioner's waiver is not granted.

Specific facts the petitioner will suffer an immediate adverse effect unless the variance or waiver is issued more expeditiously than the time from provided in Section 120.542, FS.

Petitioner will have the Regulation exam section expire within the time frame provided in Section 120.542, FS, (90 days). The expedited time allowed under the emergency variance (30 days) will allow petitioner the opportunity to schedule and retake the Auditing and Attestation section before Regulation is also lost in the event the variance is not approved.