



**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
LAURA BALLENGER**

**VW 2010-474**

**ORDER**

Petitioner, Laura Ballenger, filed a petition for a permanent variance from Rules 61H1-27.0041(1)(b), and (2), Florida Administrative Code (FAC), on July 19, 2010. The notice of the petition appeared in the Florida Administrative Weekly on August 6, 2010, in Volume 36 Number 31; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy held on August 27, 2010, in Tampa, Florida. At the hearing on this matter, Petitioner was present. The Board was represented by Mary Ellen Clark, 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. Section 473.308(4), Florida Statutes (FS), provides that an applicant for licensure must show one year of work experience. Rule 61H1-27.0041, FAC, specifies the manner in which the one year of work experience must be documented.
3. Rule 61H1-27.0041(1)(b), FAC, provides that "supervised" and "supervision" mean "the subjection of the applicant, during employment, to oversight, guidance and evaluation by a supervisor who had the right to control and direct the applicant as to the result to be accomplished by the work and also as to the means by which the result was to be accomplished."

4. Rule 61H1-27.0041(2), FAC, provides in part that "one year of work experience shall be held and understood to mean the rendition of services such as are customarily performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, commencing after the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C."

5. Petitioner is and has been the Chief Financial Officer of Legal Services of North Florida (LSNF) for more than five years. LSNF is a non-profit entity, that requires specialized knowledge of government grants, and its financial statements are audited every year. As LSNF does not employ a CPA, Petitioner would be forced to leave her employment with LSNF to achieve strict compliance with Rule 61H1-27.0041, FAC.

6. Petitioner completed the educational requirements of Section 473.308(3), FS, four months after the one year work experience requirement took effect.

7. Petitioner seeks a permanent variance from Rule 61H1-27.0041(1)(a), and (2), FAC, to the extent necessary for the Board to find that the supervision requirements have been met and that she has met the one year work experience requirement for licensure.

#### **Grounds for Approval**

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

8. Petitioner established that the purpose of the underlying statute, Section 473.308(4)(a), FS, would be met were she to be granted a variance from the rule based upon the following:

A. Petitioner missed completing her education by the deadline of December 31, 2008 (before which the one year of work experience was not required), by only four months;

B. Petitioner's practice is in a specialized field of non-profit entities and government grants;

C. Petitioner prepares financial statements in the regular course her employment with LSNF; and

D. Petitioner provided favorable references from the LSNF auditors.

9. Petitioner further established that the Board's application of Rules 61H1-27.0041(1)(b), and (2), FAC, to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

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

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

**DONE AND ORDERED** this 8<sup>th</sup> day of October, 2010,  
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 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), 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 Laura Diane Ballenger, 3457 Cedarwood Trail, Tallahassee, Florida 32312; and to F. Scott Boyd, Executive Director, Joint Administrative Procedures Committee, Room 120 Holland Building, Tallahassee, Florida 32399-1300, and Mary Ellen Clark, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050 this 15<sup>th</sup> day of October, 2010.

*Brandon M. Nichols*

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PS Form 3825, June 2009

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| <b>FILED</b>                                       |                 |
| Department of Business and Professional Regulation |                 |
| Deputy Agency Clerk                                |                 |
| CLERK  | Brandon Nichols |
| Date   | 7/19/2010       |
| File #   |                 |

**PETITION FOR WAIVER FROM RULE 61H1-27.0041 (1) (b) and Rule 61H1-27.0041 (2)**

**Petitioner Information:**

Laura Diane Ballenger  
3457 Cedarwood Trail  
Tallahassee, FL 32312  
Ph: (850) 591-7104 or (850) 701-3312  
Fax: (850) 205-6540

**RECEIVED**  
JUL 19 2010

**Attorney Information:**

**BOARD OF ACCOUNTANCY**

Not Applicable

**Applicable portions of the rule:**

**VW 2010-474**

**61H1-27.0041 (1) (b) One Year of Work Experience:**

“Supervised” and “supervision” the subjection of the applicant, during employment, to oversight, guidance and evaluation by a supervisor who had the right to control and direct the applicant as to the result to be accomplished by the work and also as to the means by which the result was to be accomplished.”

**61H1-27.0041 (2) One Year of Work Experience:**

“One year of work experience shall be held and understood to mean the rendition of services such as are customarily performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, commencing after the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C. The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The supervisor, in her or his report to the Department, shall certify that the applicant rendered such services as are customarily performed by full-time, regularly employed staff employees for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year.”

**The statute the rule is implementing:**

Section 473.308(4a), F.S

**Type of action requested:**

The petitioner requests that the Board of Accountancy please waive Rule 61H1-27.0041 (1) (b), FAC and Rule 61H1-27.0041 (2), FAC.

**Specific facts that demonstrate a substantial hardship:**

These rules require one year of work experience under the supervision of a licensed certified public accountant or a chartered accountant. The strict application of these rules, however, would cause unintended results; I would have to leave my current place of employment as Chief Financial Officer of Legal Services of North Florida, where I have been happily employed and have contributed to our mission for over five years. I have worked very hard to get to the position of CFO. Leaving my current employer to find a position under a CPA would likely mean a reduction in pay. This would cause a substantial economic hardship to me.

**The reason why the waiver would serve the purposes of the underlying statute:**

The AICPA and the NASBA have urged each jurisdiction to revise its laws in order to bring about uniformity in licensing and regulating the public accounting profession. In doing so, the one year work experience rule, which allows for a CPA licensure candidate to gain practical knowledge of the field, was passed in the State of Florida. I believe the length of time that I have been working in the field and the level at which I work accomplish what the one year work experience rule is trying to achieve.

Attached are a letter from the independent auditor who has (along with other members of her CPA firm) audited Legal Services of North Florida for over ten years now and the management letter from our most recent audit. These attachments speak to my level of responsibility at LSNF and offer specific examples of the work I perform, showing that I routinely render services that are customarily performed by a certified public accountant. Please also review my job description, performance evaluations and letters of support, all of which were previously submitted with my original application for licensure. Lastly, please consider the fact that this rule was not in place until my coursework for licensure was almost completed. Had I finished my coursework a mere one semester earlier, this rule would not have been applicable to me.

**Petitioner Statement:**

The petitioner seeks a permanent waiver from Rule 61H1-27.0041 (1) (b), FAC and Rule 61H1-27.0041 (2), FAC.

Dated this 19<sup>th</sup> day of July, 2010.

