

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
MICHELLE E. GRAY**

ORDER

VW 2011-056

Petitioner, Michelle E. Gray, filed a petition for a permanent variance from Rule 61H1-27.0041(2), Florida Administrative Code (FAC), on February 21, 2011. The notice of the petition appeared in the Florida Administrative Weekly on March 4, 2011, in Volume 37 Number 09, no comments by interested persons were received. The petition was heard at a duly-noticed telephonic meeting of the Board of Accountancy held on March 25, 2011. At the hearing on this matter, Petitioner was present and 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) who passed the fourth portion of the CPA examination in or around December 2010.
2. Section 473.308(4), Florida Statutes (FS), provides that an applicant for licensure must show one year of work experience (applicants who passed the examination on or before June 30, 2010, would be exempt from this requirement). Rule 61H1-27.0041, FAC, specifies the manner in which the one year of work experience must be documented.
3. 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.”

4. Petitioner was employed under the direct supervision of a Florida licensed CPA in good standing from June 2001 to August 2006.

5 Petitioner obtained a bachelor’s degree in Accounting from the University of South Florida in 1992, prior to beginning her work experience.

6. Petitioner seeks a permanent variance from Rule 61H1-27.0041(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

7. 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 obtained five years of work experience under the supervision of a licensed CPA; and

B. Petitioner obtained a bachelor’s degree in Accounting prior to beginning her work experience.

8. Petitioner further established that the Board’s application of Rule 61H1-27.0041(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 21st day of April, 2011,
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), 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 Michelle E. Gray, 8320 245th Street, Myakka City, Florida 32451, 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 9th day of May, 2011.

Brandon M. Nichols

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PS Form 3800, August 2005		See Reverse for Instructions	

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/21/2011
File #	

"Amended" Petition for Variance from Rule 61H1-27.0041(2)

Petitioner Information:

Michelle E. Gray
8320 245th Street East
Myakka City, FL 34251
(941) 322-0518

Attorney Information:

Not Applicable

VW 2011-056

Applicable portion of the rule:

61H1-27.0041(2)

61H1-27.0041 One Year of Work Experience.

With the exception of an applicant who completes the requirements of Section 473.308(3), F.S., on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, an applicant must document one year of work experience as follows:

(1) Definitions. Within the context of this rule, the following definitions apply:

(a) "Applicant." An applicant is a person who has met Florida's educational requirements for licensure and intends from the outset of the supervised experience to meet the supervised experience requirement for licensure.

(b) "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.

(c) "Supervisor." A supervisor is either a licensed certified public accountant in good standing with any regulating body or a chartered accountant recognized by the International Qualifications Appraisal Board (IQAB).

(2) 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 citation to the statute the rule is implementing:

Section 473.308, Licensure

Type of action requested:

The petitioner respectfully requests that the Board of Accountancy grant a variance from 61H1-27.0041(2) which in part states work experience commence after requirements to sit for the exam have been met.

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

I received my BS in Accounting from the University of South Florida in 1992. For the last eighteen years I have worked in the Accounting profession. My duties have included month end and year end closings, preparing financial statements, reconciling bank accounts, job costing, fixed asset accounting, preparing taxes, preparing audit work papers and working directly with external auditors, budgeting, accounts payable, accounts receivable, payroll and supervising accounting staff.

I worked under a Florida CPA for five years, from June, 2001 through August, 2006.

I returned to the University of South Florida in 2009 to complete the education requirements (the 5th year) in order to sit for the CPA exam. I took the CPA exam during August-November, 2010.

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

For years I have rendered the services that are customarily performed by a full-time, regularly employed staff employee of a CPA. I am of good moral character, I have met all of the education requirements and have passed all sections of the CPA examination with high scores.

Petitioner Statement:

The petitioner requests a permanent variance from Rule 61H1-27.0041(2).

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/25/2011
File #	

Petition for Variance from Rule 61H1-27.0041(2)

Petitioner Information:

Michelle E. Gray
8320 245th Street East
Myakka City, FL 34251
(941) 322-0518

VW 2011-056

Attorney Information:

Not Applicable

Applicable portion of the rule:

61H1-27.0041(2)

61H1-27.0041 One Year of Work Experience.

With the exception of an applicant who completes the requirements of Section 473.308(3), F.S., on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, an applicant must document one year of work experience as follows:

(1) Definitions. Within the context of this rule, the following definitions apply:

(a) "Applicant." An applicant is a person who has met Florida's educational requirements for licensure and intends from the outset of the supervised experience to meet the supervised experience requirement for licensure.

(b) "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.

(c) "Supervisor." A supervisor is either a licensed certified public accountant in good standing with any regulating body or a chartered accountant recognized by the International Qualifications Appraisal Board (IQAB).

(2) 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 citation to the statute the rule is implementing:

Section 473.308, Licensure

Type of action requested:

The petitioner respectfully requests that the Board of Accountancy grant a variance from 61H1-27.0041(2) stated above due to the following circumstances.

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

I received my BS in Accounting from the University of South Florida in 1992. For the last eighteen years I have worked in the Accounting profession. My duties have included month end and year end closings, preparing financial statements, reconciling bank accounts, job costing, fixed asset accounting, preparing taxes, preparing audit work papers and working directly with external auditors, budgeting, accounts payable, accounts receivable, payroll and supervising accounting staff.

I worked under a Florida CPA for five years, from June, 2001 through August, 2006.

I returned to the University of South Florida in 2009 to complete the education requirements (the 5th year) in order to sit for the CPA exam. I took the CPA exam during August-November, 2010.

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

For years I have rendered the services that are customarily performed by a full-time, regularly employed staff employee of a CPA. I am of good moral character, I have met all of the education requirements and have passed all sections of the CPA examination with high scores.

Petitioner Statement:

The petitioner requests a permanent variance from Rule 61H1-27.0041(2).