

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/27/2018
File #	2018-07030

**IN RE: PETITION FOR VARIANCE BY
ELENA MOCCHI**

VW 2018-148

ORDER GRANTING PETITION

Petitioner, Elena Mocchi, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on July 13, 2018. The Notice of the petition appeared in the Florida Administrative Register on July 20, 2018, in Volume 44 Number 141; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 10, 2018, in Ft. Lauderdale, 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 BEC portion of the CPA examination on March 8, 2016, and credit for that portion of the examination expired on September 8, 2017. Petitioner passed the AUD portion of the CPA examination on December 15, 2016, and credit for that portion of the examination expired on June 15, 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 FAR portion of the examination on June 25, 2018, and credit for that portion of the examination will expire on December 25, 2019. Petitioner passed each portion of the CPA examination on the first attempt.

4. During the 18-month window after passing the BEC and AUD portions of the examinations, Petitioner's father who lived overseas became ill. Petitioner cared for him until his death in February 2017. Petitioner states that she returned to the United States after his death, in order to sit for the REG portion of the examination on May 24, 2017. Due to technical difficulties at the Prometric Testing Center located in Miami, Florida, she was unable to take the REG portion of the examination. After settling her father's estate overseas and dealing with her own medical problems. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of nine (9) months and seventeen (17) days beyond the eighteen months provided in the rule to retain the passing score on the BEC and AUD portions of the examination until June 25, 2018, when she passed the fourth portion of the examination.

GROUND FOR APPROVAL

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.

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 20th day of August, 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, FS, 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 Elena Mocchi, 5401 Collins Avenue, Apt 625, Miami Beach, Florida 33140, 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 27th day of August, 2018.

Brandon M. Nichols

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK: Brandon Nichols
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From: Francesco Facilis Fax: (305) 885-4324

To:

Fax: (352) 333-2608

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

Petitioner Information:

Elena Mocchi
5401 Collins Avenue, Apt 625
Miami Beach, FL 33140
(305) 343-4611

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JUL 13 2018

BY:

Attorney Information:

Not Applicable

VW 2018-148

Applicable Portions of the rules:

61H1-28.0052(1)(b) Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examinations, 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

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Type of Action Requested:

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

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Specific fact that demonstrates a violation of the principle of fairness that would justify a variance for the petitioner:

At the end of 2013, petitioner was diagnosed with a serious condition that required extensive treatment in 2014. Petitioner continues ongoing therapy with regular check-ups to assess health (Doctor's letter is included with petition).

In 2015, petitioner's father, who at the time was 95 and lived overseas, became ill. Petitioner traveled for long periods to take care of ailing parent. While there, petitioner was the sole caretaker. The caretaking duties were shared with another sibling who would fly out to relieve petitioner. This allowed petitioner to return to the United States. While in the U.S., petitioner sat for the BEC exam on 2/29/2016, received passing grade on 3/9/2016 with an expiration on 9/8/2017. Petitioner returned to tend

to her father who got progressively worse and spent many weeks hospitalized. Upon petitioner's return to the U.S in September of 2016, petitioner sat for the AUD on 12/7/2016, received passing grade on 12/16/2016 with an expiration on 6/15/2018.

In January of 2017, petitioner returned to care for her parent. Unfortunately, in February, petitioner's father passed away. Petitioner returned to the U.S. in March to sit for the REG section on May 24th and scheduled to take FAR on September 7th. This would have allowed the petitioner to complete all exams within the 18 month rule.

On May 24th, 2017 petitioner went to take the REG section at the Prometric site (testing center #0070, located at 8240 NW 52nd Terrace, Suite 400, Miami Florida 33166). However, due to technical difficulties at the testing center, petitioner was not able to take the exam. The Prometric staff provided a confirmation number 84121756 and a ticket number 00909983 documenting the incident. Petitioner had to travel the next day in order to settle her father's estate.

Upon return to the US, petitioner had to re-study REG and re-schedule it along with FAR. While dealing with some health issues brought on by father's passing and a great deal of stress, petitioner sat for the REG exam on 10/6/2017, received passing grade on 12/19/2017 with an expiration on 6/18/2019.

Petitioner sat for FAR on 5/11/2018, received passing grade on 6/27/2018 with an expiration on 12/25/2019.

Having to manage the prolonged care of her ailing 96 year old father overseas, grieving her father's subsequent passing, her delicate state of health, settling her father's estate, working, managing her other responsibilities, and following rule 61H1-28.0052(1)(b) created substantial hardship for the petitioner.

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 requirements and is of good moral character.

Petitioner Statement:

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