

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
<small>CLERK</small>	Brandon Nichols
<small>Date</small>	1/26/2010
<small>File #</small>	

PETITION FOR VARIANCE FROM RULE 61H1-28.0052.

Petitioner information:

Kelaine Escarment
 5533 NW 185th Street
 Miami, FL 33055
 305 474-0200 Home
 305 585-2942 Work
kescarment@yahoo.com

VW 2010-069

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 JAN 26 2010
 BOARD OF ACCOUNTANCY

Attorney information:

Not Applicable

Applicable portion of the rule:

61H1-28.0052(1)(b), FAC

"Candidates must pass all four test sections of the CPA Examination with a rolling eighteen-month period, which begins on the date that the first test section(s) passed is taken. In the even 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, FS-Examinations

Type of action requested:

The petitioner requests that the Board of Accountancy please waive 61H1-28.0052(1)(b), FAC (stated above) for her personal situation.

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

The Petitioner was pregnant during the second half of 2008 and the first half of 2009 and it was difficult for her to pass all four sections within the 18 month rule period. Because of her pregnancy, she had very bad morning sickness in her first trimester and she missed several exam dates which caused her to reschedule many times. Furthermore, due the health reasons, she had an early and unplanned C-section on April 16, 2009; five weeks before her due date of May 21, 2009 which requires longer recovery time and caused her

to reschedule the last two exams. The petitioner is a single Mom with a new born baby and working full time in the Accounting Industry in the peak of busy season.

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

To the petitioner's knowledge, she has met all the educational requirements, and is of good moral character.

Petitioner Statement:

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

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CLERK *Brandon M. Nichols*
DATE 5-10-2010

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR VARIANCE BY
KELAINE ESCARMANT

VW 2010-069

ORDER

Petitioner, Kelaine Escarmant, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code, on January 26, 2010. The notice of the petition appeared in the Florida Administrative Weekly on March 5, 2010, in Volume 36 Number 11; no comments by interested persons were received. The petition was heard at a duly-noticed public telephonic meeting of the Board of Accountancy on March 26, 2010. At the hearing on this matter, Petitioner was neither present nor represented by counsel. 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. 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 REG portion of the examination on February 28, 2008, the FAR portion of the examination on August 17, 2008, the AUD portion of the examination on June 19, 2009, and the BEC portion of the examination on November 12, 2009. Petitioner's credit for the REG portion of the examination had expired on August 28, 2009.
3. Petitioner states that after becoming pregnant and being very ill during her first

semester and ultimately having an unplanned C-section, she was required to reschedule examination dates and missed passing all four test sections within eighteen months by approximately two and one half months.

5. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow her to retain the passing scores on all portions of the CPA examination as if all had been passed within eighteen months.

GROUND FOR APPROVAL

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

6. Petitioner established that the purpose of the accountancy examination statute would be met as required by Section 473.306, Florida Statutes.

7. 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.

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

DONE AND ORDERED this 9th day of April, 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 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 Kelaine Escarmant, 5533 NW 185th Street, Miami, Florida 33055 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 10th day of APR May, 2010.

Brandon M. Nichols