

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	9/24/2012
File #	2012-05950

**IN RE: PETITION FOR VARIANCE BY  
MARIAH JOHNSON**

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**ORDER GRANTING PETITION**

**VW 2012-214**

Petitioner, Mariah Johnson, filed an emergency petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code, on July 5, 2012. The notice of the petition appeared in the Florida Administrative Weekly on July 20, 2012, in Volume 38 Number 29; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 3, 2012, in Miami, 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. 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 CPA examination on April 30, 2011, and credit for that portion of the examination expires on December 23, 2012. Petitioner passed the BEC portion of the examination on August 31, 2011, and credit for that portion of the examination expires on March 15, 2013.
4. Since passing the first portion of the CPA examination, both of Petitioner's parents have fallen ill and died, creating extenuating circumstances for Petitioner.

5. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow her an extension of twelve months beyond the eighteen months provided in rule to retain the passing score on the REG and allow her to pass the remaining two portions of the CPA examination.

**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 is not an emergency. The Board further determined the petition should be granted and Petitioner be given until June 23, 2013, to pass the remaining two portions of the CPA examination on the following grounds:

6. 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.

7. 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 13<sup>th</sup> day of September, 2012,  
by the Florida Board of Accountancy.

  
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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), 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 Mariah Johnson, 1230 SW 87<sup>th</sup> Way, Pembroke Pines, Florida 33025, and to Jesslyn Krouskroup, Chief Attorney, Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 W. Madison Street, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 24<sup>th</sup> day of September, 2012.

  
Brandon M. Nichols

**RECEIVED**

JUL 05 2012  
BOARD OF ACCOUNTANCY

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/5/2012
File #	

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

28.0052(1)(b)

**Petitioner Information:**

Mariah Johnson  
1230 SW 87<sup>th</sup> Way  
Pembroke Pines, FL 33025  
Phone: (954) 802-7700  
Fax: (954) 252-4704

**VW 2012-214**

**Applicable Portions of the rules:**

**61H1-28.0052(1)(b) Number of Sitzings, 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 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 473.906 - Examination**

**Type of Action Requested:**

The petitioner respectfully requests that the Board of Accountancy please grant a variance or waiver to Rule 61H1-28.0052(1)(b)

**Specific facts that demonstrate a substantial hardship that would justify a variance for the petitioner:**

The petitioner's eighteen-month period began 4/30/2011. Soon after 4/30/2011 her mother began to show signs of failing health. On May 16, 2011, after numerous doctor's visits, test and surgical procedures her mother was diagnosed with Stage 3, Pancreatic Cancer (an untreatable terminal cancer). She became her mother's primary caregiver from May 2011 to November 22, 2011; the date of her mother's passing. At her mother's request she was laid to rest in Greenville, MS on December 3, 2011

While her mother was still alive she mother encouraged her to continue her last three months (All-day Saturday Program) of her graduate program so that she could see her daughter graduate with her Master's Degree. The petitioner continued her last three months of studies and graduated with her Executive Master's of Taxation, August 16, 2011. The petitioner was also a single mother working full-time.

Shortly after her mother's passing, the petitioner applied and received her Notice to Schedule (NTS) in January 2012. She scheduled to sit for her third exam in the month of May 2012. In the month of February 2011, her father was hospitalized due to complications with Stroke and Dialysis. As a result, the petitioner had to redirect her time dedicated to studying to assist daily with the care of her father. Her father succumbed to his illnesses June 12, 2012.

The past twelve months for the petitioner has demonstrated a physical and emotional hardship. The application of the eighteen-month rule in this circumstance would create a substantial hardship. To work, study, test, lose both parents, unsuccessfully suppress mourning and to be pressured by the requirement to finish two exams by November 2012 creates a substantial hardship. In addition, the petitioner has continued to halfheartedly study in a state of exhaustion, stress and depression in an attempt to meet her November 2012 deadline.

The application of the 18 month rule would also violate the principles of fairness. Because for a 12 month period the petitioner had to care for both parents time was lost from studying. As the time she cared for her parents did not allow her to continue with her CPA studies. As a result she is allotted 5 months remaining to study.

**The reason why the variance or waiver requested 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 an emergency temporary variance or waiver from rule 61H1-28.0052(1)(b), F.A.C. for an additional 12-months from the granting of the variance or as the state board deems necessary.

**Facts that make the situation an emergency:**

The petitioner has until November 2012 to complete her remaining exams. The petitioner needs an expedited response to this petition so that she can determine as soon as possible the time she has left to complete her exams.

**Specific facts to show that the petitioner will suffer an immediate adverse effect unless the variance is issued more expeditiously than the time frame provided in Section 120.542,F.S**

**if the variance is not issued more expeditiously, the petitioner will not be aware of the time she has to plan for studying. She would not be able to make reasonable planning with her place of employment. The petitioner risks losing very limited time studying if the variance is not issued more expeditiously. She is already at a disadvantage due to her circumstance and she would be at a further disadvantage if held to comply with the time frame provided in Section 120.542,F.S**