

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/11/2015
File #	2015-01282

**IN RE: PETITION FOR VARIANCE BY
SONIA GARATE**

VW 2014-442

ORDER GRANTING PETITION

Petitioner, Sonia Garate, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on December 4, 2014. The Notice of the petition appeared in the Florida Administrative Register on December 11, 2014, in Volume 40 Number 239; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on January 16, 2015, in Tampa, Florida. At the hearing on this matter, Petitioner was present and 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 FAR portion of the CPA examination on November 8, 2012, and credit for that portion of the examination expired on May 8, 2014. Petitioner passed the AUD portion of the examination on September 8, 2013, and credit for that portion of the examination will expire on March 9, 2015. Petitioner passed the BEC portion of the examination on December 6, 2013, and credit for that portion of the examination will expire on June 6, 2015. Petitioner passed the REG portion of the CPA examination on September 8, 2014, and credit for that portion of the examination will expire on March 8, 2016.
4. Petitioner experienced unexpected family health concerns that prevented her from

completing the examination timely. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four months beyond the eighteen months provided in the rule to retain the passing score on the FAR portion of the examination through September 8, 2014, when she passed the fourth portion of the examination.

GROUNDS FOR APPROVAL

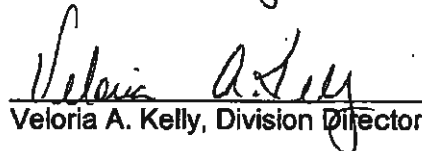
The Board determined the petition should be granted on the following grounds:

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 6th day of February, 2015, 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 Boards 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 to Sonia Garate 12187 Sugar Pine Trail, Wellington, Florida 33414, and to Jesslyn Krouskroup, 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 11th day of February, 2015.

Brendon M. Nicks

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Street, Apt. No., or PO Box No. <u>12187 Sugar Pine Trail</u>	
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PS Form 3800, June 2002	See Reverse for Instructions

FILED
 Department of Business and Professional Regulation
 Deputy Agency Clerk
 CLERK Brandon Nichols
 Date 12/4/2014
 File #

Petition For Variance From Rule 61HI-28.0052(1)(b)

18 Month Rule

Petitioner Information:

Sonia Garza (Assam)
12187 Sugar Pine Trl, Wellington FL 33414
951-600-8927

Attorney Information:

Not Applicable

RECEIVED
 DEC 04 2014
 BY:

VW 2014-442

Applicable Portions of the rule:

61HI-28.0052(1)(b) Number of Sittings and Granting of Credit, Retake of Grades and Completion of Examination, Transition Rules.

Candidates must pass all four sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grad release date for the first test section(s) passes. 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.

Type of Action Requested:

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

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

Petitioner has been working as full time tax accountant during the entire testing process. Due to an unexpected family health concern petitioner was not able to maintain the exam schedule that she originally planned. After dedicating months attending to family medical care she was left with insufficient preparation time towards the end of her testing window. The final section, REG, was also at the height of a busy tax season and her attempts were unsuccessful. She was able to successfully pass her final section on 9/9/14, however, her FAR credit expired on 5/8/14. Petitioner respectfully requests variance due to time and attention diverted to family health care during testing window.

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

To the petitioner's knowledge, she will meet all the education requirements on December 18th, 2014 and is of good moral character.

Petitioner Statement:

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