

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/20/2015
File #	

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

**Petitioner Information:**

**Name:** Karen Forbes  
**Address:** 1421 SW 67 Ave, Apt 56  
Miami, FL 33144  
**Phone:** (786) 704-5095  
**Email:** karenmf28@yahoo.com  
**Application No:** 287130

**VW 2015-181**

**Attorney Information:**

Not Applicable

**Applicable Portions of the Rules:**

Rule 61H1-28.0052(1)(b), FAC which states:

"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 of the Statute the Rule is Implementing:**

Section 473.306, Florida Statutes-Examination

**Type of Action Requested:**

The petitioner requests that the Board of Accountancy please waive Rule 61H1-28.0052(1)(b), FAC (stated above) due to the petitioner's personal circumstances.

**Specific facts that demonstrate a violation of principles of fairness and a substantial hardship would justify a waiver of variance for the petitioner:**

The petitioner received her first score for the CPA Examination on 05/23/2013 for the AUD section. After receiving a failing score of 74 for this first attempt the petitioner was not able to continue testing due to the fact she accepted a full time position at Royal Caribbean Cruises, LTD as a Staff Accountant on 06/13/2013. The petitioner accepted the position because she had begun a ten month program to complete her Master of Accounting on 01/08/2013 and needed a source of income to cover the three subsidized loans she accepted to pay for the program. The petitioner had also paid for her CPA Examination study materials out of pocket. The petitioner could not effectively continue to study for the CPA Examinations while being both a full-time student and a full-time employee. However, once the petitioner completed her Master of Accounting program on

10/10/2013 she was able to resume her studies for the CPA Candidacy. On 12/18/2013 the petitioner received her passing score for the AUD section.

Unfortunately, at the start of 2014, her responsibilities Royal Caribbean Cruises, LTD increased due to the anticipated expansion of the cruise line fleet and changes in the data management and reporting systems. The petitioner began to work longer hours on a daily basis.

Additionally, the candidate began to experience several personal problems when her grandmother's health deteriorated and her disabled mother's housing situation became unbearable.

The petitioner's grandmother, Mireya Montenegro, began to experience severe lung congestion and asthma in March 2014. The grandmother needed increased medical attention and personal care. The petitioner dedicated a lot of time to her grandmother during this time. In her state of unrest, the grandmother spilled some hot tea on her thighs and received second degree burns. The burns were treated by a nurse who completed house visits every couple of days for a few weeks starting 04/17/2014. On the last day of her visits, the nurse said that the grandmother's lung condition looked very bleak and that the grandmother should be taken to the emergency room as soon as possible. That same day the petitioner took her grandmother to the emergency room. Her grandmother was admitted into the hospital for five days, from 04/30/2014 to 05/04/2014, because it was diagnosed that she was suffering from pneumonia. During her stay at the hospital, the petitioner never left her grandmother's side because the grandmother started to hallucinate under the effects of the medication and could not be left alone. Thankfully, after the fourth day her grandmother's health showed signs of improvement. After receiving a blood transfusion the last night, the grandmother was released from the hospital and soon made a full recovery.

The petitioner's mother, Regla Forbes, is disabled due to depression and anxiety problems. Since June 2013, the petitioner's mother began to experience an unbearable housing situation due to an increase of crime in her neighborhood. In the HUD housing development complex, Gwen Cherry Apartments, where the petitioner's mother lived there were multiple gun shots heard just a few feet from her house every night. The petitioner's mother's anxiety worsened as she feared for her life. The petitioner assisted her mother by going to several meetings in order to report the shootings and get a housing transfer for her mother. The police and the complex manager were made aware of the issue but the gunshots continued on and off for the rest of the 2013 and 2014. At the beginning of 2014, the gang related crime activities around her mother's neighborhood increased in intensity and the petitioner's efforts to get her mother a transfer resumed. The petitioner dedicated her evenings to her mother by staying with her in the evenings since her mother's anxiety had worsened. Additionally, she helped her mother temporarily relocate to her grandmother's apartment. On 05/23/2014 the petitioner's mother attended an appointment with the Applicant Center Leasing office and was offered a transfer to an improved location. Finally, on 06/26/2014 the petitioner's mother signed the lease for her new apartment which she moved into the next day. The petitioner helped her mother move and settle into her new apartment.

During this time the petitioner was only able to test once for the FAR section. She received a failing score on 03/10/2014.

Meanwhile, at the petitioner's job at Royal Caribbean Cruises, LTD, the petitioner continued to work longer hours than she had in 2013. This situation was exacerbated when a fellow staff employee resigned and the department was understaffed for four months (October 2014 – January 2015). At this point the petitioner was working an average of 12 hours daily. On 01/28/2015 the petitioner interviewed for a lateral job position at the University of Miami's Miller School of Medicine which she started on 03/30/2015.

After starting her new position, the petitioner's work-life balance greatly improved. She has since dedicated herself to passing the remaining CPA Examinations. On 05/05/2015, the petitioner received her passing score for the FAR section. Moreover, on 06/09/2015, the petitioner received her passing score for the BEC section. The petitioner plans to take the REG section of the CPA Examination in August 2015.

Unfortunately, the petitioner's AUD credit will expire on 06/17/2015. If it were not for the aforementioned circumstances the petitioner is sure she would have been able to successfully pass all four sections of the CPA Examination within the eighteen months in accordance to Rule 61H1-28.0052(1)(b). Therefore, applying the rule despite the petitioner's circumstances would violate principles of fairness and impose substantial hardship.

The petitioner is requesting a twelve month temporary variance from Rule 61H1-28.0052(1)(b), FAC. The additional twelve months would allow her to pass the remaining sections of the CPA Examination without having to retake the AUD section.

**The reason why the variance would serve the purpose of the underlying statutes:**

The petitioner has met all the educational requirements and is of good moral character. The petitioner is dedicated and loyal to her Accounting career and desire to become a Certified Public Accountant.

**Petitioner Statement:**

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

Dated this 20<sup>th</sup> day of July, 2015

  
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**Signed: Karen Forbes**

STATE OF FLORIDA  
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR VARIANCE BY  
KAREN FORBES

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	10/29/2015
File #	2015-09036

**VW 2015-181**

**ORDER GRANTING PETITION**

Petitioner, Karen Forbes, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on July 20, 2015. The Notice of the petition appeared in the Florida Administrative Register on July 28, 2015, in Volume 41 Number 145; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on September 25, 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 AUD portion of the CPA examination on December 17, 2013, and credit for that portion of the examination expired on June 17, 2015. Petitioner passed the FAR portion of the examination on May 4, 2015, and credit for that portion of the examination will expire on November 4, 2016. Petitioner passed the BEC portion of the examination on June 8, 2015, and credit for that portion of the examination will

expire on December 8, 2016. Petitioner passed the REG portion of the CPA examination on August 14, 2015, and credit for that portion of the examination will expire on February 24, 2017.

4. Prior to passing any portion of the CPA examination, Petitioner became employed and was a full-time student earning her Master's degree. After passing the AUD portion of the CPA examination, Petitioner's employment responsibilities increased. Additionally, 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 two months beyond the eighteen months provided in the rule to retain the passing score on the AUD portion of the examination through August 14, 2015, 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 28<sup>th</sup> day of October, 2015,

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 to Karen Forbes, 1421 SW 67 Ave, Apt. 56, Miami, Florida 33144, 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 29<sup>th</sup> day of October, 2015.

*Brandon M. Nicks*

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