

STATE OF FLORIDA  
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR VARIANCE BY  
JESSICA LEE WAHNISH

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/7/2016
File #	2016-02703

ORDER GRANTING PETITION

**VW 2016-033**

Petitioner, Jessica Lee Wahnish, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on February 12, 2016. The Notice of the petition appeared in the Florida Administrative Register on February 19, 2016, in Volume 42 Number 34; 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 11, 2016. 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 December 6, 2013, and credit for that portion of the examination expired on June 6, 2015. Petitioner passed the REG portion of the examination on June 6, 2014, and credit for that portion of the examination expired on December 6, 2015. Petitioner passed the AUD portion of the examination on September 9, 2015, and credit for that portion of the examination will expire on March 9, 2017. Petitioner passed the BEC portion of the CPA examination

on February 3, 2016, and credit for that portion of the examination will expire on August 3, 2017.

4. Petitioner was working full time and failed to pass all portions of the examination timely, due to busy tax seasons and complications after the move of a testing site. 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 scores on the REG portion of the examination through February 3, 2016, 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 5<sup>th</sup> day of April, 2016,

by the Florida Board of Accountancy.

Veloria A. Kelly  
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 mail to Jessica Lee Wahnish, 629 Legacy Park Drive, Casselberry, Florida 32707, 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 7<sup>th</sup> day of April, 2016.

  
Brandon M. Nicks

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<b>Deputy Agency Clerk</b>	
CLERK	<b>Brandon Nichols</b>
Date	<b>2/12/2016</b>
File #	

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

**Petitioner Information:**

Jessica Lee Wahnish  
629 Legacy Park Drive  
Casselberry, FL 32707  
(863) 608-1451

**VW 2016-033**

**Attorney Information:**

**Not Applicable**

**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 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 – 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 following circumstances:

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

The petitioner has been working in public accounting at a certified public accounting firm for 5 years. She began studying for the CPA exam after the October 15, 2013 tax deadline and passed FAR December 07, 2013. She began studying for AUD and took the exam in January of 2014, but received a failing grade. She then put down studying until after the April 15, 2014 tax busy season because of the demanding hours required by her position in public accounting. She took REG in May of 2014 and received her passing score on June 06, 2014. During the summer months, she was promoted to Tax Senior with more responsibility and extended working hours. She retook AUD and failed before the 2014 fall busy season started up. She studied for and sat the final 2 exams between tax busy seasons but was unable to pass due to the demanding hours required by work. She did not have the financial capacity to take extended time off from work to concentrate solely on studying for the exams.

After the April 15, 2015 tax busy season, she aggressively studied for AUD and BEC and scheduled her exams 1 month apart. On May 07, 2015 she was scheduled to sit for the BEC

section of the CPA exam at SAM. The testing facility location was listed as 2301 Lucien Way, Maitland FL 32751, the same location as her prior exams, when she set up her appointments a month in advance. She was not made aware that the testing facility had moved 3 weeks before her test and she arrived at the wrong location. The janitor provided her with the new address of the testing location and stated she was not the first this had happened to. She had to drive across town in rush hour traffic which caused her to almost miss her appointment. Due to a preexisting condition, the stress of not being made aware of the location change and the likelihood of not making it on time to sit for the exam caused her to get very sick during the exam. Increased stress due to the thought of having failed the BEC exam with the expiration date soon approaching prolonged her illness, and she failed her AUD exam on June 09, 2015. She was able to use some vacation time to study before the tax busy season started in August of 2015 and received a passing score for AUD on August 09, 2015. After the October 15, 2015 tax busy season, she rushed to take her final exam BEC before year end and the pressure again caused her this time to get sick a few hours before the exam. On January 04, 2016 she retook BEC and received a passing score on February 04, 2016.

As a result of not being informed of the testing facility change, the demand from work, and her preexisting condition, passing the exams within the required time period proved to be more difficult than expected, and she was unable to do so. She has now passed all four sections of the CPA exam as of the NASBA score release date of February 04, 2016.

**The reason why the variance request 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:**

**I am seeking a permanent variance from Rule 61H1-28.0052(1)(b), FAC**