

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	12/13/2018
File #	2018-10105

**IN RE: PETITION FOR VARIANCE BY
BLANCA M. AQUINO**

VW 2018-213

ORDER DENYING PETITION

Petitioner, Blanca M. Aquino, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on October 15, 2018. The Notice of the petition appeared in the Florida Administrative Register on October 17, 2018, in Volume 44 Number 203; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on November 9, 2018, in Tampa, Florida. At the hearing on this matter, Petitioner was present and was not represented by counsel; the Board was represented by Rachelle Munson, 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 June 20, 2016, and credit for that portion of the examination expired on December 20, 2017. Petitioner passed the AUD portion of the CPA examination on March 20, 2017, and credit for that portion of the examination expired on September 20, 2018. Petitioner passed the REG portion of the examination on March 19, 2018, and credit for that portion of the examination will expire on September 19, 2019. Petitioner passed the BEC portion of the examination on September 10, 2018, and credit for that portion of the examination will expire on March 10, 2020.
4. During the 18-month window after passing the FAR portion of the examination, Petitioner

states that she experienced medical problems including anxiety and depression and was unable to pass the REG and BEC portions of the examination in the 18-month time period. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of two (2) months and twenty-seven (27) days beyond the eighteen months provided in the rule to retain the passing score on the FAR portion of the examination until March 19, 2018, when she passed the REG portion of the examination and to allow an extension of eight (8) months and (21) twenty-one days to retain the passing score on the AUD portion of the examination until September 10, 2018, when she passed the BEC portion of the examination.

GROUND FOR DENIAL

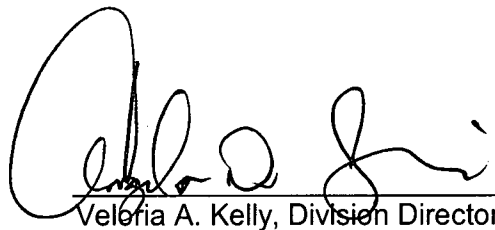
The Board determined the petition should be denied on the following grounds:

5. Petitioner failed to establish 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 failed to establish 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 7th day of December, 2018, by the Florida Board of Accountancy.


Veloria A. Kelly, Division Director

NOTICE TO PETITIONER

The Petitioner may seek review of this Order, pursuant to Sections 120.569 and 120.57, FS, 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 the Petitioner disputes any material fact upon which the Board's decision is based, Petitioner may request a hearing before an administrative law judge pursuant to Section 120.57(1), FS; the petition must contain the information required by Rule 28-106.201, FAC, a copy of which is enclosed, including a statement of the material facts which are in dispute. If Petitioner does not dispute any material fact, Petitioner may request a hearing before the Board pursuant to Section 120.57(2), FS; the petition must include the information required by Rule 28-106.301, FAC, a copy of which is enclosed. If Petitioner requests a hearing, Petitioner has 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, FS, Petitioner is 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 **Blanca M. Aquino**, 3528 Plantation Way #506, Naples, Florida 34112, and to Kenneth J. Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and by electronic delivery to: Rachelle Munson, Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com this 13th day of December, 2018.

Brandon M. Nichols

Jonathan Zachem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Jonathan Zachem, Secretary
Reginald Dixon, Chief of Staff

FROM: Paul Waters, Deputy Secretary

SUBJECT: Delegation of Authority

DATE: September 12, 2018



I, Paul Waters, hereby delegate to Angela Francis, signature authority on behalf of Director Veloria Kelly due to a medical emergency. All documents signed on Director Kelly's behalf should have a copy of this Delegation of Authority attached.

PW/tr

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

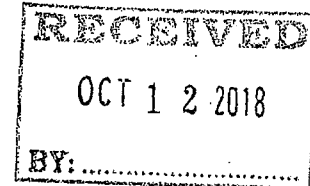
Petitioner Information:

Blanca M. Aquino
3528 Plantation Way # 506
Naples, FL 34112
941-889-9833

Attorney Information:

Not Applicable

VW 2018-213



FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/15/2018
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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 to the statute the rule is Implementing:

Section 473.306 – Examination

RECEIVED

OCT 15 2018

Type of Action Requested:

DBPR Agency Clerk

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 fact that demonstrate a violation of the principles of fairness that would justify a variance for the petitioner:

The petitioner was approved by NASBA, Special Accommodations under the ADA guidelines for extended time and separate room due to her diagnosis of anxiety disorder, ADD and depression. She needs additional time and effort to read and write compared to most people in the general population. Not to mention that stressful events increased her levels of anxiety and her difficulty in concentrating in normal daily activities like work or school.

The petitioner has been working as a Senior Accountant for the past 6 years. Her plan was to pass all four sections of the CPA exam while working full time. She began taking the exams on June 2016. The petitioner took her first exam, FAR on June 9th, 2016, she received her passing grade on June 21st, 2016. She started studying immediately for her second exam and took AUD on October 28th, 2016, she received her not passing grade on November 22nd, 2016. The petitioner took a short break for the holidays and started studying again for AUD. During the holidays she started having relationship problems with her partner and due to this event, her anxiety levels increased and had difficulty in concentrating at work and her studies. However, she was determined to pass the CPA exam and continue to study. She sat for AUD (2nd attempt) on March 9th, 2017 and received her passing grade on March 21st, 2017. She sat for her third exam, REG on July 31st, 2017 and due to the change in the CPA exam on April 1st, 2017, she didn't receive her grade until September 19th, 2017. The score delay and the uncertainty of not knowing her score for 7 weeks increased significantly her

anxiety levels and even though she was studying for the fourth section BEC, she encountered major problems concentrating because of the uncertainty of the REG score. Also, during September 2017 Hurricane Irma hit Collier and Lee County, and she had to be evacuated to Volusia County for 3 days. When she came back home, she didn't have electricity for 5 days making her studies more difficult. She didn't pass REG on September 19th, 2017. At that time, she knew that FAR was going to expire on December 20th, 2017 and that two months would not give her enough time to retake REG and take BEC; that's why on the same date she received her REG score, she sent an email to NASBA with attention to: Letitica S. Neuble Pinkney Senior Examination Coordinator/State Board Liaison, requesting an extension on the FAR score. Ms. Neuble stated that her request for an extension of the 18-month completion rule was forwarded to the Florida Board of Accountancy for a response; however, the Board prefers that applicants pass all four sections of the exam before petitioning. She planned to pass REG on December 2017 and BEC on March 2018; however, during the holidays, her relationship with her partner became more strained to the point that she had to start looking for a place to move while still working full time and studying for the CPA. During this time, her doctor had to increase her medication for anxiety. Also, she couldn't find an apartment to rent since during the winter months is high season in Naples and rent is very expensive. However, she never gave up on her dream of becoming a CPA and on March 9th, 2018 she retook REG and obtained her passing grade on March 19th, 2018. She continued to study and plan to sit for the last section on June 9th, 2018; however, on April 7th, she was a victim of domestic violence and her partner was arrested and was not allowed to come to the house they both lived in. Following the days of his arrest his family took possession of his house alleging that it was his house and forced her to leave the house as soon as possible. With his family in the house, she couldn't study since she didn't have a room or privacy to study. On April 15th, 2018, she was overwhelmed and took anxiety pills to sleep. She was rushed by the ambulance to the hospital. She was hospitalized for 5 days. When she was released on April 19th, 2018, she had to move out of her partner's house. During the month of May she was going to more follow-up doctors' appointments and during the month of June, she started seeing domestic violence counselors, leaving little time for her studies. However, she was determined to pass the last section of the exam and starting in June, she was able to focus more on her studies. On August 31st, 2018 she took the BEC section. On September 10, 2018 she unexpectedly received her passing grade since she was waiting for the score release target date of September 19th, 2018. On September 18th, she sent an email to CPA.Applications@myfloridalicense.com and Ms. Neuble requesting an Extension for the Section that Expired due to Severe Personal Hardship.

In summary, the petitioner worked full time and has been studying for the CPA since 2016. She was approved by NASBA, special accommodations for extended time and separate room since her mental impairment requires her additional time and effort to read and write compared to most people in the general population. In addition, if the petitioner obtains her CPA license, the petitioner will be able to assume a higher role in her current position and provide more services to customers.

<u>Event</u>	<u>Date of Occurrence</u>	<u>Date Expired</u>
Passed FAR	June 21 st , 2016	December 20 th , 2017
Domestic problems with partner	November, December 2016	
Passed AUD (2 nd attempt)	March 21 st , 2017	September 20 th , 2018
Took REG (1 st attempt)	July 31 st , 2017 (took exam); September 19 th , 2017 (score released: failed)	
Strained domestic problems	November, December 2017	
Started looking for a place to live	December 2017 (no housing available due to high season)	
Passed REG (2 nd attempt)	March 19 th , 2018	September 19 th , 2019
Passed BEC	September 10 th , 2018	March 10 th , 2020

With this petition I am attaching all the necessary documents confirming the events stated above: Police report, restraining order against the petitioner's partner, doctor's letter, counselor's letters, hospitalization records and ambulance records.

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

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

Petitioner Statement:

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