

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/27/2018
File #	2018-07029

**IN RE: PETITION FOR VARIANCE BY
ESTEFANIA RODRIGUEZ**

VW 2018-149

ORDER GRANTING PETITION

Petitioner, Estefania Rodriguez, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on July 11, 2018. The Notice of the petition appeared in the Florida Administrative Register on July 20, 2018, in Volume 44 Number 141; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 10, 2018, in Ft. Lauderdale, Florida. At the hearing on this matter, Petitioner was neither present nor represented by counsel; 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 REG portion of the CPA examination on August 3, 2016, and credit for that portion of the examination expired on February 3, 2018. Petitioner passed the AUD portion of the CPA examination on November 21, 2016, and credit for that portion of the examination expired on May 21, 2018. Petitioner passed the BEC portion of the examination on August 21, 2017, and credit for that portion of the

examination will expire on February 21, 2019. Petitioner passed the FAR portion of the examination on June 25, 2018, and credit for that portion of the examination will expire on December 25, 2019.

4. During the 18-month window, Petitioner states that in September 2017, Hurricane Irma displaced her from her home for approximately one month. After Hurricane Irma, Hurricane Maria hit Puerto Rico where most of Petitioner's family resides, so she opened up her home as a refuge. This hindered her efforts in studying for the FAR portion of the CPA examination. Petitioner began experiencing seizures in January, 2018. She was placed on medication to prevent seizures, which limited her alertness and ability to study for and pass the FAR examination in February 2018. She applied for accommodations and passed the FAR portion of the examination In June, 2018. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four (4) months and twenty-two (22) days beyond the eighteen months provided in the rule to retain the passing score on the REG and AUG portions of the examination until June 25, 2018, 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 20th day of August, 2018, 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, 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 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), FS; your 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 you do not dispute any material fact, you may request a hearing before the Board pursuant to Section 120.57(2), FS; your petition must include the information required by Rule 28-106.301, FAC, 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, FS, 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 Estefania Rodriguez, 560 SE 20th Avenue, Deerfield Beach, Florida 33441, and to Kenneth J. Plante, 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 27th day of August, 2018.


Brandon M. Nibbe

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DBPR Agency Clerk

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/11/2018
File #	

BY:	
JUL 11 2018	
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Petitioner Information:

Estefania Rodriguez
560 SE 20th Ave
Deerfield Beach, Florida 33441
Phone: (434) 229-4198

VW 2018-149

Applicable Portions of the Rule:

61H1-28.0052(1)(b) Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

(b) 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

Type of Action Requested:

I, Estefania Rodriguez (the petitioner), request the Board of Accountancy waive rule 61H1-28.0052(1)(b), stated above due to the following circumstances.

Specify Fact that Demonstrates a Violation of the Principles of Fairness that would Justify a Variance for the Petitioner:

In June of 2016, I took my first part of the CPA exam (REG), and received a passing score in August of 2016, starting the 18-month rolling period to complete the remaining three exams. In November of 2016, I received a passing score for the Audit (AUD) portion of the exam. In May of 2017, I took the Business (BEC) portion of the exam and received my passing score in August of 2017. Within a 12-month period, I passed three out of four parts of the CPA exam, and was on track to complete all four parts within the required time frame. I proceeded to take the last exam portion (FAR) on four separate occasions (July 2017; November 2017; February 2018 and June 2018). As noted from these dates, I had full intentions to pass all sections within the designated 18-month period. However, during these months, several unforeseen circumstances made it extenuatingly difficult to dedicate the proper time to pass the final portion of the exam. These circumstances are discussed as follows:

During September of 2017, South Florida-Broward county (where I reside) was directly hit with Hurricane Irma which displaced me from my home for about one month. This situation may be verified through FEMA and the assistance I received from the agency as part of the disaster relief during that time (Registration ID: 39-6833431; Disaster Number: 4337) (Exhibit 1). The situation put my family and myself under stress due to limited availability of basic services and power. As a result, it was very difficult for me to properly concentrate on preparing for the CPA exam. Immediately after Hurricane Irma, Hurricane Maria hit Puerto Rico where most of my family resides. Once I was back in my home, I had to open my house as a refuge to some of my family members from Puerto Rico (Exhibit 2). This further hindered my efforts to study because my time and resources were diluted during these months trying to recover from damages done to my home in Florida as well as

assisting my family from Hurricane Maria. Despite this situation, I gave my best effort to study. However, I received a failing score in December of 2017.

I immediately initiated my efforts once again to study for the exam. However, I had unexpected health issues in January of 2018, where I was rushed to the emergency room as I experienced unexplained seizures (Exhibit 3). I was seeing doctors for about 3 months and was placed on medication to prevent seizures while tests were being performed as well as working full time (Exhibit 4). The prescribed medication greatly limited my alertness level and ability to study for the upcoming exam scheduled in February. It also worsened my preexisting medical condition (a condition I have seen a specialist for about 4 years) (Exhibit 5) to the point I had to see my medical specialist for attention several times during this period. While managing seizure medications and medical tests, I persisted to attempt to take the CPA exam, as this was the last time I could take it without losing credit for previously passed parts. The stress of passing along with my medical conditions limited my ability to execute properly during the CPA exam. I experienced so much pain and discomfort during the exam, that I received another failing score in February of 2018.

I contacted the Florida state board of accountancy with my concerns, and they advised me to apply for accommodations as my condition may be considered a disability. I quickly contacted my medical doctor and submitted the paperwork for accommodations (Exhibit 6). The board's medical team reviewed my records and granted me testing accommodations. In June of 2018, I took the FAR portion of the CPA exam, and received a passing score.

As of the end of June 2018, I have passed all sections of the CPA exam. My request is to be granted a variance from Rule 61H1-28.0052(1)(b) 18-month rolling period for the Regulation and Audit portions of the CPA examination due to the natural disasters in my area (Florida) and in Puerto Rico, as well as my health issues. Additionally, I am requesting you to consider the time lost during 2017 when the exam was going through major changes and required all candidates to wait longer periods to receive scores, as it aggravated the time constraint to pass all sections.

I appreciate your time and collaboration to review my petition. I have attached all supporting documentation below for your review. If you require additional documentation to support my statements, please contact me.

Reason why the Variance Requested Would Serve the Purpose of the Underlying Statute:

To my knowledge, I have met all the education requirements and I am of good moral character.

Petitioner Statement:

I, Estefania Rodriguez (the petitioner), seek a permanent variance from Rule 61H1-28.0052(1)(b).