

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/11/2018
File #	2018-04442

**IN RE: PETITION FOR VARIANCE BY  
JENIFER DONALDSON**

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**VW 2018-047**

**ORDER GRANTING PETITION**

Petitioner, Jenifer Donaldson, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on March 21, 2018. The Notice of the petition appeared in the Florida Administrative Register on March 30, 2018, in Volume 44 Number 63; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on May 4, 2018, in Orlando, Florida. At the hearing on this matter, Petitioner was present. 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 March 9, 2016, and credit for that portion of the examination expired on September 9, 2017. Petitioner passed the BEC portion of the CPA examination on August 23, 2016, and credit for that portion of the examination expired on February 23, 2018. Petitioner passed the FAR portion of the examination on February 23, 2017, and credit for that portion of the

examination will expire on August 23, 2018. Petitioner passed the AUD portion of the examination on February 6, 2018, and credit for that portion of the examination will expire on August 6, 2019.

4. During the 18-month window in August 2017, Petitioner found out that she did not pass the AUD portion of the examination; the score release had been delayed. She immediately scheduled to retake the AUD examination before her REG examination passing score expired in September 2017, but due to a testing site closure due to Hurricane Irma, the Petitioner had to reschedule again to a later date. Petitioner states that she received the AUD passing score on February 6, 2018 and scheduled to retake REG in February. She did not pass the retake of the REG examination. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four (4) months and twenty-eight (28) days beyond the eighteen months provided in the rule to retain the passing scores from her first taking of the REG portion of the examination, when she passed the fourth portion of the examination on February 6, 2018.

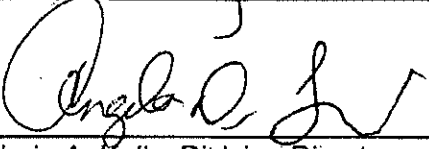
#### **GROUND FOR APPROVAL**

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 31<sup>st</sup> day of May, 2018,  
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 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 Jenifer Donaldson, 6670 79<sup>th</sup> Avenue N, Pinellas Park, Florida 33781, 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 11<sup>th</sup> day of June, 2018.

*Brendan M. Nichols*

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Jonathan Zachem, Secretary

Rick Scott, Governor

## MEMORANDUM

**TO:** Paul Waters, Deputy Secretary

**FROM:** Veloria A. Kelly, Director /s/ *Veloria A Kelly*

**SUBJECT:** Delegation of Authority

**DATE:** May 23, 2018

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I, Veloria Kelly, hereby delegate to Angela Francis, signature authority in my absence on May 24-31, 2018.

All documents signed on my behalf should have a copy of this Delegation of Authority attached.

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/21/2018
File #	

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

**Petitioner Information:**

Jenifer Donaldson  
6670 79<sup>th</sup> Ave N  
Pinellas Park, FL 33781  
(813) 765-4790

VW 2018-047

RECEIVED  
March 21, 2018

**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

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

With the score release on February 6, 2018, the petitioner has passed all four parts of the CPA Exam.

The petitioner first passing part Regulation (REG), expired on September 8, 2017. There were long delays in the release of scores during 2017. After the delayed score release in August 2017, the petitioner found out she did not pass her last part which she took earlier in 2017. The petitioner scheduled to retake Audit (AUD) immediately before her first passing score expired early September 2017, but due to an unforeseen testing site closure, because of Hurricane Irma, the petitioner had to reschedule to a later date. The petitioner would have more opportunities to sit for her last section before her first passing score expired, if there were no extensive score release delays in the Spring and Summer of 2017 and if the Prometric site was not closed on her scheduled testing date of September 7, 2017 due to Hurricane Irma. The petitioner retook the last section Audit (AUD) and did pass with the recent score release on February 6, 2018.

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DBPR Agency Clerk

Once she received her last passing score on February 6, 2018, she scheduled to retake her first passing score, which had now expired, Regulation (REG) on February 21, 2018 before her second passing score, Business Environment & Concepts (BEC) expired on February 22, 2018. The petitioner had to rush to prepare to retake the expired test. The petitioner knew she did not have enough time to submit the petition for variance and hear back between February 6 and February 21, 2018. She did rush and take the exam in February, but did not pass because of the rush. Unfortunately, now both Regulation (REG) and Business Environment & Concepts (BEC) have expired.

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

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

Petitioner Statement:

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