

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/5/2018
File #	2018-08322

**IN RE: PETITION FOR VARIANCE BY  
MARY JANE FILLMAN**

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**ORDER GRANTING PETITION**

**VW 2018-169**

Petitioner, Mary Jane Fillman, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on August 2, 2018. The Notice of the petition appeared in the Florida Administrative Register on August 14, 2018, in Volume 44 Number 158; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on September 20, 2018, in Daytona Beach, Florida. Petitioner made an appearance.

**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 August 3, 2016, and credit for that portion of the examination expired on February 3, 2018. Petitioner passed the REG portion of the CPA examination on November 3, 2016, and credit for that portion of the examination expired on May 3, 2018. Petitioner passed the BEC portion of the examination on March 7, 2017, and credit for that portion of the examination expired on September 7, 2018. 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's father suddenly passed away and she was left to care for her disabled grandmother. Also, during this time, Hurricane Irma hit Florida and she had to evacuate herself and her grandmother. Due to the Hurricane, the location to which she evacuated was without power and internet for a week, making it difficult to prepare for the fourth CPA examination scheduled in October. Finally, on October 10, 2017, her grandmother was admitted to the hospital and passed away on November 19, 2017. Petitioner did not pass the FAR portion of the examination in October 2017. 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 AUD portion of the examination until June 25, 2018, when she passed the fourth portion of the examination. She also seeks an extension of one (1) month and twenty-two (22) days beyond the eighteen months provided in the rule to retain the passing score of the REG portion 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:

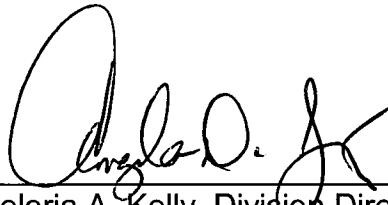
5. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

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

This Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

**DONE AND ORDERED** this 2nd day of October, 2018, 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, FS, 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), 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 Mary Jane Fillman, 36905 Indian Lake Cemetery Road, Dade City, Florida 33523, and to Kenneth J. Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Rachelle Munson, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 5<sup>th</sup> day of October, 2018.

Brandon M. Nichols

Jonathan Zachel, Secretary

Rick Scott, Governor

## MEMORANDUM

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

FROM: Paul Waters, Deputy Secretary

SUBJECT: Delegation of Authority

DATE: September 12, 2018



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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

CPA

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

Petitioner Information:

Mary Jane Fillman  
36905 Indian Lake Cemetery Road  
Dade City, FL 33523  
352-457-3364

Attorney information:

Not applicable.

Applicable Portions of the rules:

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

- (1) With respect to the CPA Examination (2) 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 tests 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 the test section(s) must be retaken.

The citation of the statute the rule is implementing:

Section 473.306 – Examination

Type of Action Requested:

I (the petitioner) requests that the Board of Accountancy grant a permanent variance to Rule 61H1-28.005(1)(b), FAC stated above due to the following circumstances.

Specific facts that demonstrates the substantial hardship or a violation of the principles of fairness that would be alleviated by a variance for the petitioner:

Petitioner successfully passed all four sections of the CPA exam. However, due to unforeseen circumstances, the petitioner was unable to complete the exams within the eighteen-month rolling window. Shortly before preparing to sit October 22, 2017 for the FAR section, her father passed away suddenly from an aortic aneurysm. Her father and herself, along with her disabled grandmother, were living in the same household up until his passing on June 4, 2017. She has had to adjust emotionally and financially to life without him. He was the primary caretaker of her grandmother, a role which she had to fulfill while preparing for the exam and working at a CPA firm full time. During September 2017, Florida was hit by Hurricane Irma. Being that she lives in a mobile home, she had to evacuate her grandmother and herself to a more secure location. That location was without power and Internet for a week, during which time she was unable to prepare for the exam in October, thus shortening the time she had to prepare.

FILED

Department of Business and Professional Regulation

Deputy Agency Clerk

CLERK Brandon Nichols

Date 8/2/2018

File #

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BY: .....

VW 2018-169

CPA

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

On October 10, 2017, her grandmother fell ill and was admitted to the hospital. She had to make trips to the hospital to visit her and speak with doctors while working and preparing for the exam. During her grandmother's stay, she attempted to reschedule the exam to give herself more time to prepare. However, no dates were available that worked that would allow her to stay within the eighteen-month rolling window and meet work obligations.

On November 19, 2017, the petitioner's grandmother passed away after being in the hospital for a little over a month. Again, she has had to adjust to living without another family member. She has enclosed copies of both her father's and grandmother's death certificates. Her credit for AUD expired February 3, 2018, credit for REG expired May 3, 2018, credit for BEC expires September 7, 2018, and credit for FAR expires December 25, 2019. She asks for an extension of credits for AUD, REG, and BEC.

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

To the petitioner's knowledge, she has met all education requirements and is of good moral character. Therefore, petitioner establishes that the purpose of the underlying statute, Section 403.306, Florida Statutes, would be met by granting a variance from paragraph 61H1-28.0052(1)(b), F.A.C. Petitioner also establishes that applying the requirements of the aforementioned rule to her circumstances would violate principles of fairness and impose substantial hardship.

Petitioner statement:

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