

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/22/2018
File #	2018-01338

**IN RE: PETITION FOR VARIANCE BY  
OLIVIA MULLEN LEHRL**

**VW 2018-003**

**ORDER GRANTING PETITION**

Petitioner, Olivia Mullen Lehrl, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on January 8, 2018. The Notice of the petition appeared in the Florida Administrative Register on January 12, 2018, in Volume 44 Number 09; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on February 2, 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 BEC portion of the CPA examination on February 3, 2016, and credit for that portion of the examination expired on August 3, 2017. Petitioner passed the REG portion of the CPA examination on August 22, 2016, and credit for that portion of the examination will expire on March 22, 2018. Petitioner passed the AUD portion of the examination on February 22, 2017, and credit for that

portion of the examination will expire on August 22, 2018. Petitioner passed the FAR portion of the examination on December 7, 2017, and credit for that portion of the examination will expire on June 7, 2019.

4. During the 18-month window, Petitioner states that due she worked full time at a certified public accounting firm. She was unable to take the examinations during the busy seasons due to a 60+-hour work schedule and the testing window and tax filing deadlines conflicting with each other. Petitioner sat for the fourth section of the examination (FAR) on May 31, 2017. She did not receive her FAR test score until August 17, 2017, which she failed. When Petitioner attempted to take the FAR examination on September 7, 2017, the testing center was closed due to Hurricane Irma. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four (4) months and four (4) days beyond the eighteen months provided in the rule to retain the passing scores on the BEC portion of the examination, when she passed the fourth portion of the examination on December 7, 2017.

#### **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 19<sup>th</sup> day of February, 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, 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 Olivia Mullen Lehrl, 103 S Swinton Circle, Delray Beach, Florida 33444, 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 22<sup>nd</sup> day of February, 2018.

  
Brandon M. Nichols

Petition for Variance from Rule 61H1-28.0052(1)(b)  
18 Month Rule

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/8/2018
File #	

Petitioner Information:

Name: Olivia Mullen Lehr  
Address: 103 S Swinton Circle  
Delray Beach, FL 33444  
Phone Number: (352)-284-9622

**RECEIVED**

**JAN 08 2018**

**VW 2018-003**

Attorney Information:

Not Applicable

**DBPR Agency Clerk**

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 the following circumstances.

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

The petitioner worked full time at a certified public accounting (CPA) firm from May 2015 to January 2017 and currently works full time as a contractor at the same CPA firm from January 2017 to present. As a full time employee of a CPA firm, the petitioner was unable to take examinations during the firm's "busy seasons," which requires 60+ hour work weeks. The petitioner successfully passed her first two exams while employed full time at the CPA firm. However, the tremendous workload resulted in less time to study and fewer opportunities to take the exams because of the "busy season" schedule and conflicting dates of testing windows and tax filing deadlines. Due to the timing issues for the examinations, specifically the timing issues related to the new April 2017 version of the CPA examination to be discussed in the following paragraph, the petitioner and her employer made the decision to restructure the terms of her employment from that of a full time employee to a contractor of the firm beginning in January 2017.

In addition, the petitioner was impacted by the new version of the CPA Examination which launched in Q2 2017. The National Association of State Boards of Accountancy (NASBA) held Q2 2017 scores for ten weeks, releasing all Q2 2017 scores on August 17, 2017. The petitioner sat for her fourth section of the exam (FAR) on May 31, 2017 (during Q2 2017). The petitioner's credit for her first successful portion of the CPA Examination, BEC, expired during the score hold period on August 3, 2017. Due to the score hold, the petitioner did not receive the results of her exam in the typical 2-4 week period as is standard in ordinary testing windows. As a result, the petitioner was not able to retake the FAR portion of the exam in Q3 2017 before losing credit of her first successful portion of the exam (BEC) on August 3, 2017. Furthermore, the petitioner essentially lost ten weeks of her 18 month testing window because of the Q2 2017 score hold.

The petitioner, dedicated and driven to complete all four portions of the CPA examination in the shortest time frame available, immediately re-applied on August 19, 2017 with a test date of September 7, 2017 in West Palm Beach, Florida. Due to Hurricane Irma's imminent landfall on the state of Florida, all South Florida Prometric testing centers closed as of September 6, 2017 and would not re-open until after the September 10, 2017 close of the Q3 2017 testing window. On September 6, 2017, the petitioner rescheduled her final portion of the exam for December 7, 2017. The petitioner did not schedule the exam for October or November because her employer, the CPA firm, was located in a county that "constitutes a covered disaster area for the purposes of IRS Treasury Regulation Section 301.7508A-1(D)(2) and is entitled to late filing relief, extending the filing due date to January 31, 2018." The petitioner was actively working "busy season" past the October 15, 2017 filing deadline through the end of the 2017 calendar year.

The petitioner passed the BEC portion of the examination on February 4, 2016, and credit for that portion of the examination expired on August 3, 2017. Petitioner passed the REG portion of the examination on August 23, 2016, and credit for that portion of the examination will expire on February 22, 2018. Petitioner passed the AUD portion of the examination on February 23, 2017, and credit for that portion of the examination will expire on August 22, 2018. Petitioner passed the FAR portion of the examination on December 19, 2017, and credit for that portion of the examination will expire on June 18, 2019.

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

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

Petitioner Statement:

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

Thank you in advance for your consideration.

Regards,

Olivia Lehl

(352) 284-9622

Email: [olivialehrl@gmail.com](mailto:olivialehrl@gmail.com)

Application #: 371619

Jurisdiction ID: Florida 01152441

National Candidate ID: 715211