

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

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| <b>FILED</b>  |                 |
| Department of Business and Professional Regulation<br>Deputy Agency Clerk |                 |
| CLERK   | Brandon Nichols |
| Date  | 6/11/2018       |
| File #  | 2018-04440      |

**IN RE: PETITION FOR VARIANCE BY  
SARAH TUTTLE**

**VW 2018-051**

**ORDER GRANTING PETITION**

Petitioner, Sarah Tuttle, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on March 28, 2018. The Notice of the petition appeared in the Florida Administrative Register on April 4, 2018, in Volume 44 Number 66; 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 May 4, 2016, and credit for that portion of the examination expired on November 4, 2017. Petitioner passed the AUD portion of the CPA examination on June 7, 2016, and credit for that portion of the examination expired on December 7, 2017. Petitioner passed the BEC portion of the examination on August 3, 2016, and credit for that portion of the

examination expired on February 3, 2018. Petitioner passed the FAR portion of the examination on March 19, 2018, and credit for that portion of the examination will expire on September 19, 2019.

4. During the 18-month window, Petitioner states that she experienced health issues which required visits to numerous specialists before culminating in traveling for out-of-state surgery in November 2017. She also had numerous visits to a physical therapist. Petitioner states that the amount of time away from work for medical appointments and recovery prevented her from using vacation time to offset the disruption to her study schedule and did not allow her adequate preparation time to successfully sit for the fourth and final section of the CPA examination within the required timeframe. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four (4) months and eighteen (18) days beyond the eighteen months provided in the rule to retain the passing scores on the REG portion of the examination, when she passed the fourth portion of the examination on March 19, 2018.

#### **GROUND FOR APPROVAL**

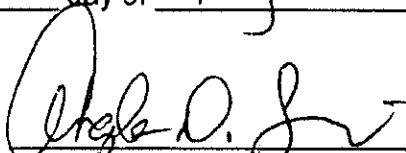
The Board determined the petition should be granted on the following grounds:

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 Sarah Tuttle, 400 Capital Circle SE, Ste. 18-113, Tallahassee, Florida 32301, 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.

  
Brandon M. Nichols

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| <b>U.S. Postal Service™</b>  |                                    |
| <b>CERTIFIED MAIL™ RECEIPT</b>   |                                    |
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| Total Postage  | Sarah Tuttle                       |
| Sent To  | 400 Capital Circle SE, Ste. 18-113 |
| Street, Apt.<br>or PO Box #  | Tallahassee, Florida 32301         |
| City, State, .   |                                    |
| PS Form 3800, August 2009  |                                    |

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.

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| <b>FILED</b>  |                 |
| Department of Business and Professional Regulation<br>Deputy Agency Clerk |                 |
| CLERK   | Brandon Nichols |
| Date  | 3/28/2018       |
| File #  |                 |

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

**Petitioner Information:**

Sarah Rose Tuttle  
 400 Capital Circle SE Ste. 18-113, Tallahassee, FL, 32301  
 (941) 447-1545

**VW 2018-051**

**Attorney Information: Not**

Applicable

**Applicable Portions of the rules:**

61HI-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 61HI- 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 has been working full-time in governmental auditing at the State of Florida Auditor General's Office for five years. The petitioner passed the Regulation section of the CPA examination on May 5, 2016, (credit expired 11/4/17), passed the Auditing and Attestation section on June 8, 2016, (credit expired 12/7/17), and passed the Business Environment and Concepts section on August 4, 2016, (credit expired 2/3/18) demonstrating her dedication to passing all four parts within the required 18-month window. The petitioner unsuccessfully sat for the Financial Accounting and Reporting section on September 6, 2016, December 7, 2016, March 8, 2017, May 31, 2017, and October 31, 2017, before passing the section as of March 20, 2018. During the 18-month window, the petitioner experienced health issues which required visits to numerous specialists before culminating in the petitioner traveling out-of-state for surgery in November 2017. Additionally, after surgery there were numerous visits to a physical therapist. The amount of time away from work for medical appointments and recovery prevented the petitioner from using vacation time to offset the disruption to the petitioner's study schedule. These issues did not allow adequate preparation time to successfully sit for the fourth and final section of the CPA examination within the required timeframe. (Petitioner can provide medical documentation, if necessary.)

**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 requirements and is of good moral character.

**Petitioner Statement:**

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

**RECEIVED**

**MAR 29 2018**

**DBPR Agency Clerk**