

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
JENNYFER URBINA**

VW 2019-132

NOTICE OF INTENT TO DENY PETITION

Petitioner, Jennyfer Urbina, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on July 12, 2019. The Notice of the petition appeared in the Florida Administrative Register on July 23, 2019, in Volume 45 Number 142. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on October 18, 2019, in Daytona Beach, Florida. Due to a state of emergency declared by the executive branch resulting from inclement weather, previous proceedings were postponed, and the matter was continued until the date of this meeting. Petitioner was present for the proceeding and was not represented by counsel. The Board was represented by Rachelle Munson, Assistant Attorney General. The Petition is incorporated by reference herein and attached to this notice.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. **Rule 61H1-28.0052(1)(b), F.A.C.**, provides in pertinent 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.

2. Petitioner passed the BEC portion of the CPA examination on March 20, 2017, and credit for that portion of the examination expired on September 20, 2018. Petitioner passed the AUD portion of the examination on September 18, 2018, and credit for that portion of the examination will expire on March 18, 2020. Petitioner passed the FAR portion of the examination on May 6, 2019, and credit for that portion of the examination will expire on November 6, 2020. Petitioner passed the

REG portion of the CPA examination on June 18, 2019, and credit for that portion of the examination will expire on December 18, 2020.

3. During the 18-month window, Petitioner identified the following personal and external events that contributed to her score passage lapse:

- As a partner of a CPA firm effective April 2017, with 20% ownership, higher client / employee demand, resulting in 70-hour workweeks;
- Impact of Hurricane Irma with landfall in September 2017, requiring evacuation and resulting in damage and power outages at work and home;
- Workload due to extended tax season impacted her study schedule;
- Newly enacted Federal Tax Reform bill became effective between November and December 2017, resulting in major changes in the tax industry, and the investment of significant time necessary to understand the changes;
- Resulting from a condition diagnosed at birth, Petitioner identified ongoing medical issues regarding hearing ability, headaches, numbness, nausea, dizziness, and balance. Petitioner acknowledged her appreciation for discretion, because she had chosen not to be judged on her condition. No additional documentation was submitted.

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

5. Petitioner is eight (8) months and twenty-nine (29) days outside the eighteen-month window for passage of the REG section of the examination.

GROUND FOR DENIAL

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

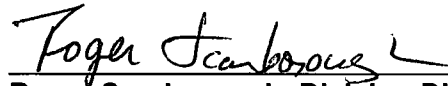
6. Petitioner failed to establish that the Board's full application of Rule 61H1-28.0052(1)(b), F.A.C., to her circumstances, with consideration given to the examination passage window exceeding requirements by almost nine (9) months, would violate principles of fairness or would

impose a substantial hardship on her.

7. Petitioner failed to establish that, if she was granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, F.S.

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

DONE AND ORDERED this 18th day of November, 2019, by the Florida Board of Accountancy.



Roger Scarborough, Division Director ✓
Florida Board of Accountancy

NOTICE OF RIGHT TO HEARING

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 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), 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.

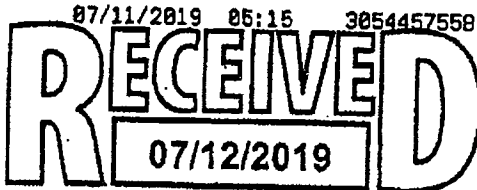
Pursuant to Section 120.573, Florida Statutes, you are hereby notified that mediation pursuant to that section is not available.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to: **Jennyfer Urbina**, 10822 SW 146th Avenue, Miami, Florida 33186, and to **Kenneth Plante**, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison

Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and by electronic delivery to:
Rachelle Munson, Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com; and Tiffany
Allen at Tiffany.Allen@myfloridalegal.com this 22nd day of November, 2019.

Brandon M. Nichols



JM MARTINEZ CPA

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/12/2019
File #	

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

Petitioner Information:

Jennyfer Urbina
10822 SW 146th AVE
MIAMI, FL 33186

Application 242822
Jurisdiction ID: FL-00744678
urbinajenn@aol.com
305-962-9000

Applicable portions of the rule:

61H1-28.0052(1)(b): Number of Sittings, 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

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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 circumstance.

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

On March 21, 2017, petitioner successfully passed her 1st CPA section BEC, which credit unfortunately expired on September 20, 2018; subsequently, on June 19, 2019 petitioner passed her 4th CPA section, 9 months after the rolling eighteen-month period which started March 21, 2017.

In April 2017, petitioner became the managing partner in a CPA Firm and due to higher client/employee demand, it obligated petitioner to work 70+ hours a week, and at times 7-day work weeks; diminishing her ability to maintain a consistent study/testing schedule. The level of responsibility increased ten folds, complying not only with management duties but also with preparer compliance.

In September 2017, Hurricane Irma made landfall in South Florida, petitioner was required to evacuate due to living in a mandatory evacuation zone. Both home and office were without power and sustained numerous damages, requiring extended amount of time and attention in order to return home and to get the office up and running. In addition to the displacement and damages, the 2016 tax year deadlines were extended into 2018, the 1st deadline of 2017 tax

year (due in April 2018), tax planning/projections and estimated deadlines for the 2018 tax year (due in 2018); In other words, it combined 3 tax years (2016,2017,2018) into 2018 calendar year. This added to the petitioner's inability to adhere to her study/testing schedule as needed.

Additional to the petitioner's time constraints, demand and workload of the combination of 3 tax years into a calendar year, mentioned above; between November and December of 2017 the newly enacted Federal Tax Reform bill went into effect. Bringing with it monumental changes to our tax industry. It required the petitioner extensive amount of time, attention and understanding in order to educate self and personnel, in addition to providing due diligence to petitioner's domestic and international clients. Once again, hindering petitioner's focus from the CPA exams schedule and ability to sticking with her planned exams and studying.

Further adding to the petitioner's state of affairs and as you may notice in her file and exam accommodations, petitioner humbly request your attention to the attached (1) medical matters.

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

To the petitioner's knowledge, she has met all educational and experience requirements, has successfully passed all four parts of the uniform CPA examination and is of good moral and ethical character. Therefore, petitioner establishes that the purpose of the underlying statute, section 473.306 Florida Statutes, would be met by granting a variance from paragraph 61H1-28.0052(1)(b), F.A.C.

Petitioner Statement:

The petitioner respectfully seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C. and extend the time of the CPA examination BEC section credit expired 9.20.2018 and be reinstated.