

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
ANNMARIE BLAIR**

VW 2019-108

NOTICE OF INTENT TO DENY PETITION

Petitioner, ANNMARIE BLAIR, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on May 24, 2019.

The Notice of the petition appeared in the Florida Administrative Register on June 11, 2019, in Volume 45 Number 113. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on July 12, 2019, in Orlando, Florida. Petitioner was present for the proceeding. 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 AUD portion of the CPA 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 March 7, 2018, and credit for that portion of the examination will expire on September 7, 2019. Petitioner passed the REG portion of the examination on June 26, 2018, and credit for that portion of the examination will expire on December 26, 2019. Petitioner passed the BEC portion of the CPA examination on May 6, 2019, and credit for that portion of the examination will expire on November 6, 2020.

3. During the 18-month window, Petitioner states that she passed all four parts of the CPA exam but lost credit for the AUD portion due to “multiple uncontrolled life events.” Petitioner identified the following personal and external events beyond her control that contributed to her score passage lapse:

- Score release delays from the national office;
- Allergy-induced asthma diagnosis in March 2017 with symptoms beginning September 2016;
- Home flood in May 2017 due to a pipe bursting, resulting in the reflooring of her entire home completed in July 2017;
- Impact of Hurricane Irma in September 2017, requiring a delay in testing and Petitioner having to reschedule the exam for October 2017;
- Unexpected “severe back injury” for nine (9) months resulting in her inability to sit, stand, lay down or walk for more than 30 minutes to one hour at a time. As a result, Petitioner asserts she was unable to sit for the 4.5-hour FAR portion of the exam until December 2017, at which time she was still unable to sit for the exam and her score expired;
- Terminal illness diagnosis of Petitioner’s step-father in January 2018 and death in August 2018, weeks prior to taking the BEC portion of the exam;
- Coping with an illness and recovery of Petitioner’s biological father in April 2018; and, in part;
- Vendor cancellation of the BEC portion of the exam in early September 2018, resulting in Petitioner driving an hour further to another testing cite where, during poor weather, the testing center had a power outage. Petitioner asserts those conditions resulted in her failure of the BEC portion of the exam.

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

5. Petitioner is seven (7) months and twenty-nine (29) days outside the eighteen-month window for the BEC portion of the examination.

GROUND FOR DENIAL

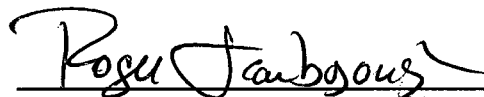
The Board determined the petition should be denied on the following grounds:

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 seven (7) 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 2nd day of August, 2019, by the
Florida Board of Accountancy.



Roger Scarborough, Division Director

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: **AnnMarie Blair**, 5906 Falconside Road, Lithia, Florida 33547, 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: Rachele Munson, Assistant Attorney General, at Rachele.Munson@myfloridalegal.com this 7th day of August, 2019.

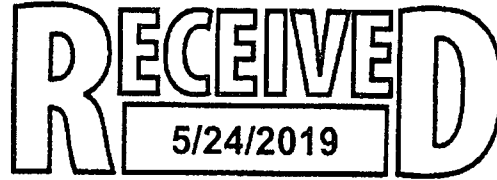
Brandon M. Nichols

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	5/24/2019
File #	

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

Petitioner Information:

AnnMarie Alvarez Blair
 5906 Falconside Road
 Lithia, FL 33547
 Phone: 813-689-4831
 Email: amblair194@gmail.com



Attorney Information:

Not Applicable

VW 2019-108

Applicable Portion 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 sections(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 – Examinations

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

The petitioner has successfully passed all four parts of the CPA exam as follows:

- AUD: Sat: 02/28/2017 Pass Result: 03/08/2017 **Expired: 09/07/2018**
- FAR : Sat: 01/31/2018 Pass Result: 03/09/2018 Expires: 09/07/2019
- REG : Sat: 06/04/2018 Pass Result: 06/29/2018 Expires: 12/26/2019
- BEC : Sat: 04/10/2018 Pass Result: 05/07/2018 Expires: 11/06/2020

The petitioner requests a permanent variance of the aforementioned rule, citing the following reasons:

- 1 Delays due to Score Releases

AUD: 03/08/17 from 02/28/17	8 Days
FAR : 03/09/18 from 01/31/18	37 Days
REG : 06/29/18 from 06/04/18	25 Days
BEC : 09/19/18 from 09/04/18	15 Days – Failed (taking 3 weeks after father passing)
BEC : 10/15/18 from 12/11/18	57 Days – Failed –This delay forced petitioner into 2019 testing

Total of 20 weeks and 3 days of petitioner studying was on hold
2. 03/2017 – Diagnosed with Allergy-induced Asthma that began in Sept 2016 suffering continuous upper respiratory coughs that reoccurred every 10-15 days for months until pulmonologist’s diagnoses.
3. 05/08/17 home flood due to pipe bursting flooding 2 rooms and a hallway. Whole house was re-floored having spent several weekends moving furniture. Completed early July 17.
4. Delay caused by Hurricane Irma weekend of 09/08/17
 - a. Scheduled to sit for FAR on 09/05/17. Hurricane Irma hit Florida on 09/08/17, forcing petitioner to reschedule the exam to 10/06/2017.

- b. Due to Hurricane Irma preparation, petitioner severely herniated 2 lower vertebrae and was unable to sit, stand, lay down or even walk for any extended period (max 30mins-1hr) experiencing constant nerve pain in the back and down the leg. Petitioner with daily therapy was not able to be without pain long enough to concentrate or sit for a 4.5hr CPA exam. FAR was rescheduled 2 times to 12/06/17, hoping to improve. There was no relief and was unable to sit on 12/06/17, and FAR NTS expired. Petitioner filed with NASBA an Exception to Policy Form to request for NTS extension including physician's letter documenting medical condition. **(ATTACHED #1)**.
 - c. 12/06/17 - Doctor also ordered an MRI which was immediately scheduled for 12/11/17.
 - d. 12/11/17 - NASBA rejected Exception to Policy extension due to not stating expected recovery date to know how long to approve an extension.
 - e. 12/11/17 - MRI was completed and scans provided. Petitioner went directly to Chiropractor for review of scans and a better course of therapy. Improvement plan was designed where he expected improvement within 30 days. Since I lost my job on 12/11/17 as well, therapy was given priority to properly improve. Resubmitted to NASBA the Exception to Policy extension request to 01/31/18 with an updated doctor's letter. **(ATTACHED #2)**, and 12/15/17 NASBA approved FAR NTS extension to 01/31/18.
 - f. Hurricane Irma and this injury delayed testing by 20 weeks and 1 day.
5. 01/22/18 petitioner's step-father of 30 years that raised her, known as "Dad" from now on, fell and hit his head and was rushed to the hospital. Test revealed he had cancer, was diagnosed as terminal and untreatable as he was too weak for chemo and did not know how long he had.
 6. 01/31/18, sat for FAR and received passing score on 03/09/18, noted in #1 above.
 7. 02/16/18 NASBS NTS website was down until 03/05/18 so could not purchase REG until 03/06/18.
 - a. Scheduled REG for 05/05/18 - first available.
 8. 04/05/18, her biological father was not expected to live due to heart surgery complications:
 - a. 04/08/18, doctor's informed us he was not coming out of his coma and not expected to live, petitioner rushed to Kansas City.
 - b. REG exam was rescheduled to 05/17/18.
 - c. 04/09/18, lost my job due to this family emergency.
 - d. 04/10/18, her father showed signs of improvement and miraculously recovered against doctor's diagnosis.
 - e. While in Kansas, the back injury pain fully returned due to lack of consistent therapy and petitioner could not sit for a CPA exam or study.
 - f. 04/16/18, returned from Kansas with no job so began doing 6 hours plus a day of physical therapy (min 3 hrs-AM/3hrs/PM) to concentrate of getting permanent relief as she was determined to heal and finish her CPA testing.
 - g. 05/15/18, petitioner could still not sit for a 4hr exam on 05/17/18 so exam was rescheduled to 06/04/18.
 - h. Started a new job on 06/4/18 and sat for REG the same day.
 - i. Total testing delay was 4 weeks and 1 day from 05/05 to 06/04.
 - j. Noted on #1, score release for REG took 25 days with a 09/07/18 AUD expiration deadline.
 9. 08/11/18 Petitioner's Dad passed:
 - a. After spending 3 wonderful but long painful weeks caring for him at home.
 - b. 08/01/18 scheduled BEC for 09/05/18 knowing AUD expiration was coming 2 days later.
 - c. 08/11/18 - On what was already a traumatic day, Prometric cancelled via email, the BEC exam on 09/5/18. Petitioner spent the Monday after Dad's passing on the phone trying to reschedule this exam being told that center was closed due to moving and would not open until after AUD

- expiration date. After hours on the phone, I was forced to schedule BEC an hour's drive away on 09/04/18.
- d. On 09/0/18 BEC exam day, she was given a calculator with a faulty button keys increasing time for each calc problem, she could not focus due to her grieving mental state, a storm passed through that created power surges, lights flickering during exam and a 15 minute power outage to which the testing computer she was on would not restart forcing her to move to a different seat all the while realizing she was not going to complete the exam and she did ultimately fail this BEC.
 - e. Noted in #1, scored release delay was 15 days.
 - f. She immediately, repurchased BEC NTS but scheduled 1 month out on 10/15/18 hoping to get past the grieving process before sitting again.
 - g. Sat for 2nd BEC on 10/15/18 at regular testing center and failed again but as noted in #1, score release was delayed 57 days which passed that quarter's retesting window and forcing her to take the exam in 2019 with new material to learn.
 - h. Further, this grade release delay her studies due to this is Accountants busiest season, year-end close and tax filing preparation. As a Controller during year-end, she was working 10 hour days with a 2 hour commute which did not allow for studying. In mid-February, she felt after getting the company through year-end, she needed to resign to focus only on passing this last CPA exam to succeed with her CPA goal. Getting her CPA was her Dad's only dream for her. He was the only person who repeatedly pushed her to get her CPA from the day she said she was getting an Accounting degree.
 - i. 3rd BEC exam was scheduled for 04/10/19 with enough time to restudy and learn new material.

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


The petitioner has passed all four parts of the CPA exam but lost credit for the first exam, AUD due to multiple uncontrolled life events expanding testing an additional 30 weeks and 5 days. Having passed AUD, FAR & REG on first tries, had she not encountered delays in score releases, development of asthma, a home flood, Hurricane Irma, severe back injury lasting 9 months, the near loss of a biological father, and the passing of a dad within months of each, she would have had enough time to fail BEC, if at all, and retake before the first exam, AUD, expiring. The petitioner is also of good moral character and professional integrity.

Petitioner statement:

The petitioner respectfully seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC and requests the 18-month testing window to be extended to an additional 30 weeks and 5 days which would allow the lost AUD credit to be reinstated. Once this credit is reinstated, the petitioner would have full credit for successfully passing all four parts within the allotted time.

Thank you for your time and understanding.

Regards,



AnnMarie Blair