

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
JENNIFER RODRIGUEZ-DIAZ**

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**VW 2019-114**

**NOTICE OF INTENT TO DENY PETITION**

Petitioner, Jennifer Rodriguez-Diaz, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on June 5, 2019. The Notice of the petition appeared in the Florida Administrative Register on June 21, 2019, in Volume 45 Number 121. 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 REG portion of the CPA examination on September 19, 2016, and credit for that portion of the examination expired on March 19, 2018. Petitioner passed the AUD portion of the examination on March 20, 2017, and credit for that portion of the examination expired on September 20, 2018. Petitioner passed the BEC portion of the examination on December 10, 2018, and credit for that portion of the examination will

expire on June 10, 2020. Petitioner passed the FAR portion of the CPA examination on May 22, 2019, and credit for that portion of the examination will expire on November 22, 2020.

3. Petitioner, acknowledging that score results were delayed due to content and format changes to the examination, states that it was difficult for her to work full-time as a sole provider for the household and study for the examination. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C.

### **GROUND FOR DENIAL**


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

4. Petitioner failed to establish that the Board's full application of Rule 61H1-28.0052(1)(b), F.A.C., to her circumstances would violate principles of fairness or would impose a substantial hardship on her.

5. 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 8<sup>th</sup> day of August, 2019,  
by the Florida Board of Accountancy.

  
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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 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: **Jennifer Rodriguez-Diaz**, 6426 Milk Wagon Lane, Miami Lakes, Florida 33014, 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 this 15<sup>th</sup> day of August, 2019.

Brandon M. Nichols

**FILED**  
Department of Business and Professional Regulation  
Senior Deputy Agency Clerk  
CLERK Brandon Nichols  
Date 6/5/2019  
File #

06/05/2019 WED 12:46 FAX 305 392 2222

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**RECEIVED**  
06/05/2019

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

**Petitioner Information:**

Jennifer Rodriguez-Diaz, EA (Hernandez)

6426 Milk Wagon Lane

Miami Lakes, FL 33014

Phone: (954) 817-0314

Email: jeniferh123@gmail.com

Jurisdiction ID: Florida 00774558

National Candidate ID:0000000000626960

Application#247964

**VW 2019-114**

**Applicable portion of the rules:**

61H1-28.0052(1)(b): 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 120.542, Florida Statutes, and Rule 28-104.004 Petition for Emergency Variance or Waiver

**Type of action requested:**

The petitioner is requesting to waive the rolling eighteen month period required by Rule 61H1-28.0052(1)(b), FAC in accordance with Section 120.542, Florida Statutes, and Rule 28-104.004 Petition for Emergency Variance or Waiver rather than the standard Rule 28-104.002 Petition for Variance or Waiver. I am requesting an Emergency Waiver to allow for an expeditious response as to not further delay my examination process should the petition be declined and the two credited exams expire in the interim.

**Specific fact that demonstrates a violation of the principles of fairness that would justify a variance for the petitioner and the reason why the variance requested would serve the purpose of the underlying statute:**

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

Regulation: 09/20/16 (expires 03/19/18)

Auditing and Attestation: 03/21/17 (expires 09/20/18)  
Business Environment and Concepts: 12/11/18 (expires 06/10/20)  
Financial Accounting and Reporting: 05/23/19 (expires 11/22/20)

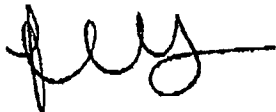
CONFIDENTIAL

The specific facts that demonstrate a violation of the principles of fairness that would justify a variance would be as follows. After receiving credit for AUD and REG by March 21, 2017 the content of the CPA Exam was changed resulting in a four month delay in score results in 2017 Quarter 2, in which the petitioner had tested for both BEC and FAR and was unable to study for any other exam until the petitioner received the results toward the end of August 2017. Then in 2018 the format of the exam was changed resulting in additional delays in score releases beginning 2018 Quarter 2. In total the petitioner was delayed about 7-8 months as a result of all of the changes to the exam leading to prolonged results. In addition to this stress that was imposed and out of the petitioner's control the petitioner's husband had to resign from his position as a nurse to go back to school and pursue his Doctorate Degree in Nurse Practitioner with a Specialization in Anesthesia leaving the petitioner as the sole provider of their household for the past year and a half and another year and a half to go. In order to accommodate the lack of income and still make ends meet the petitioner has been working two jobs, one that includes a heavy tax season, and still trying to study.

**Petitioner Statements:**

I thank the board in advance for their time and consideration and respectfully urge you to grant my petition. I feel I have worked extremely hard to successfully pass all portions of the exam, satisfy the education requirements, satisfy the work experience requirements, and would otherwise meet all the requirements of becoming a CPA were it not for the rolling eighteen month time period imposed.

Kind Regards,



Jennifer Rodriguez-Diaz, EA