

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
TERRY ANNE MULLEN**

NOTICE OF INTENT TO DENY PETITION

VW 2019-115

Petitioner, Terry Anne Mullen, 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 7, 2019. The Notice of the petition appeared in the Florida Administrative Register on June 14, 2019, in Volume 45 Number 116. 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 AUD portion of the CPA examination on September 8, 2016, and credit for that portion of the examination expired on March 8, 2018. Petitioner passed the REG portion of the examination on August 15, 2017, and credit for that portion of the examination expired on February 15, 2019. Petitioner passed the BEC portion of the examination on September 18, 2017, and credit for that portion of the examination expired on March 18, 2019. Petitioner passed

the FAR portion of the CPA examination on February 4, 2019, and credit for that portion of the examination will expire on August 4, 2020.

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

- Change in exam in Q2 of 2017;
- Death of her grandfather requiring that she travel out of state to spend time with her family and help with funeral arrangements;
- Level of responsibility she held with her job during that stage of her career combined with work demands during the "busy season."

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

5. Petitioner is ten (10) months and twenty-seven (27) days outside the eighteen-month window for passage of the FAR 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 eleven (11) 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 ✓

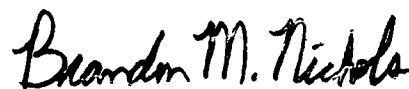
NOTICE OF RIGHT TO HEARING

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: **Terry Anne Mullen**, 200 South Orange Avenue, Suite 1200, Orlando, Florida 32801, 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.



FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/7/2019
File #	

June 6, 2019

Department of Business & Professional Regulation
Division of Certified Public Accounting
240 NW 76th Drive, Suite A
Gainesville, FL 32607

RECEIVED
JUN 07 2019

**DIVISION OF CERTIFIED
PUBLIC ACCOUNTING**

RE : PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
Petitioner Information:
Terry Anne Mullen
200 S. Orange Ave., Suite 1200
Orlando, FL 32801
Phone: (832) 421-6980
Email: tmullen@withum.com
Jurisdiction ID: Florida 01174131
National Candidate ID: 000000000712580

VW 2019-115

Applicable portion of the rules:

61H1-28.0052(1)(b): Candidates must pass all four 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

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.

Facts relevant to the petition are as follows:

1. I have successfully passed all four parts of the CPA exam as following:

Auditing and Attestation: 09/09/2016 (expired 03/08/2018) retaken and failed 02/26/2019,
Retaking Audit and Attestation again on 6/8/2019
Regulation: 08/29/2017 (expired 02/15/2019)
Business Environmental and Concepts: 08/19/2017 (expired 03/18/2019)
Financial Accounting and Reporting: 01/19/2019 (expires 08/04/2020)

2. As a tax accountant working in public accounting for roughly 5 years, I have been actively working towards getting my CPA license. I have passed all 4 parts of the exam, but not within the rolling 18 month period. Between the tax law changes, and the various chain of events stated below it has not been possible for me to achieve the requirement of passing all 4 within the 18 month period. The public accounting firm that I work for requires that I remain up to date with my CPE as if I were a licensed CPA. I believe that working in the tax department and keeping up with my CPE has kept me up to date with the changes that have been made to REG and BEC.
3. When the CPA Exam changed in Q2 of 2017, I had only passed one section of the CPA in which the passing score was released in August of 2016. Attempts were made to pass BEC and REG before the CPA Exam changes; however, during this time, my grandfather had unexpectedly

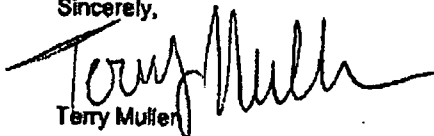
passed away. This required me to travel out of the state for an extended period of time in order to spend time with my family and help with the funeral arrangements.

4. During the time frame after passing FAR in February of 2019 I had only two weeks to pass AUD before losing REG on February 15th of 2019, this attempt was failed. My credit for BEC expired shortly thereafter on March 18th of 2019. Both of these credits were lost during busy season. Due to the level of responsibility I have at this stage of my career, combined with the hours that are demanded of me during busy season, this was not a practical time for me to pass these exams before another one expired.

I am requesting permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of 6 months beyond the 18 months provided in the rule to retain the passing scores in the BEC and REG portion of the exam until July 31st, 2019 to pass the fourth section of the examination.

Thank you for your time and consideration.

Sincerely,


Terry Muller