

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
GINA PAOLA JIMENEZ**

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**VW 2020-109**

**NOTICE OF INTENT TO DENY PETITION**

Petitioner, Gina Paola Jimenez, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on August 21, 2020. The notice of the petition appeared in the Florida Administrative Register on September 3, 2020, in Volume 46 Number 173. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on September 25, 2020, via teleconference and video conference. 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 REG portion of the CPA examination on March 19, 2018, and credit for that portion of the examination expired on September 19, 2019. Petitioner passed the BEC portion of the examination on September 18, 2018, and credit for that portion of the examination expired on March 18, 2020. Petitioner passed the FAR portion of the examination on June 18, 2019, and credit for that portion of the examination will expire on December 31, 2020. Petitioner passed the AUD portion of the CPA examination on August 6, 2020, and credit for that portion of the examination will expire on February 6, 2022.

3. Petitioner stated that she is a single mother and caretaker for her two children and elderly parents. She described family illnesses resulting in family hospitalizations in 2018 and 2019, some of which requiring her direct care, as circumstances that interfered with her ability to study. Petitioner further referenced a period where another family member disappeared for approximately three weeks in early 2020, also impacting her ability to study for the exam.

4. Petitioner also noted that testing dates due to COVID 19 were limited for a couple of months in 2020 and, on one occasion in 2019 while testing for AUD, the testing center had a power outage which she deemed adversely impacted her performance on the exam.

5. Petitioner requests a permanent waiver of the referenced rule, acknowledging that she is ten (10) months and eighteen (18) days outside the required eighteen (18) month window.

#### **GROUND FOR DENIAL**

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

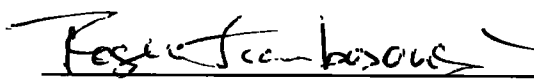
6. Notwithstanding the existence of COVID 19, Petitioner did not provide a substantially compelling explanation for not meeting the rule criteria, noting that both REG and BEC sections expired prior to passing the AUD section of the exam.

7. 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 and would impose a substantial hardship on her.

8. 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 30<sup>th</sup> day of September, 2020, 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 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: **Gina Paola Jimenez**, 806 Perdido Heights Dr., West Palm Beach, FL 33413, 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](mailto:Rachele.Munson@myfloridalegal.com) this 27<sup>th</sup> day of October, 2020.



<b>FILED</b>	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/21/2020
File #	

**PETITION FOR WAIVER OR VARIANCE FROM RULE 61H1-28.0052 (1) (b), FAC**

**Petitioner Information:**

Gina Paola Jimenez  
806 Perdido Heights Dr.  
West Palm Beach, FL 33413  
Phone: (954) 940-0978  
Email: gpmayorga@gmail.com  
Application # 437611

**RECEIVED**  
AUG 21 2020

DIVISION OF CERTIFIED  
PUBLIC ACCOUNTING

**Attorney Information:**

Not applicable

**VW 2020-109**

**Applicable portions of the rule:**

**61H1-28-0052 (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 – Examinations**

**Type of Action Requested:**

**I, Gina Paola Jimenez, request that the Board of Accountancy please waive Rule 61H1-28-0052 (1) (b), Florida Administrative Code (F.A.C), and request a permanent variance of the above rule based on the following circumstances:**

**Specific facts that demonstrates a violation of principles of fairness that would justify a variance for the petitioner:**

**I passed the REG section of the CPA examination on March 20, 2018 and credit expired on September 19, 2019. I passed the BEC section of the examination on September 19, 2018 and credit expired on March 18, 2020. I passed the FAR section of the examination on June 19, 2019 and this section will expire on December 31, 2020. I passed the AUD section of the examination on August 7, 2020 and this section will expire on February 6, 2022.**

During the 18-month window I experienced multiple events beyond my control, which interfered with timely preparation, scheduling and passing of all four sections of the CPA exam. I am a single mother and the main caretaker for my twin children and my elderly parents. Detailed below are the extenuating circumstances that prevented me from fulfilling the 18-month requirement. I have also attached supporting documentation for your review.

- On 06/13/2018 my father was admitted to the hospital and was required to have a surgical procedure due to a heart disease. This required my undivided assistance, as he was restricted on the activities he could perform.
- On 08/14/2018 my father was admitted to the hospital for a total hip replacement surgery requiring 3 days of hospitalization and my undivided assistance. Once he was discharged, he required multiple follow up visits and my assistance with the postoperative instructions and therapies for the ensuing two months.
- On 10/18/2018 my father was admitted to the hospital once again due to a clogged artery and another surgical procedure was needed. He required continual post-operative assistance due to his heart condition, which severely limited his ability to perform any physical activity.
- On 08/22/2019 my twin son who was just three years old at the time, was taken to the emergency room due to a major cut on his eyelid, requiring him to get stitches. Due to his age and his medical condition, I had to closely monitor his activities for several weeks to ensure proper healing and avoid infection.
- On 08/29/2019 I sent an email to NASBA expressing concerns as I had a scheduled exam on 09/07/2019 to take my last section (AUD), but we were expecting Hurricane Dorian to have an impact on Florida. I was afraid not to be able to take the exam due to power outages, or closures amidst the forecasted hurricane. I ended up taking the exam on the scheduled day, however, midway through the exam we experienced a power outage that lasted about 1hr and 45 minutes before it was resolved. I strongly believe that the emotional impact of this event inadvertently affected my exam performance.
- On 10/01/2019 I took my father to the hospital again due to blood clog issues and was advised that he needed to have a bone marrow procedure to address the issues he was experiencing.
- On 10/03/2019, he was subsequently admitted for a hernia surgery. During his recovery, he required my continued assistance for about 3 weeks, as he was very limited in the activities that he could perform.
- On November 2019, my daughter who was just 3 years old at the time developed a severe eye condition, which required treatment, office visits, and therapy.
- On 01/8/2020 after 2 months of treatment, my daughter underwent corrective eye surgery. During the post-op she required absolute supervision and continue treatment for several weeks to avoid infection.
- On 02/24/2020 my mother was admitted to the hospital for her left eye surgery. During the post-op she required my assistance for a period of 2 weeks due to prescribed limited activity.

- On 03/12/2020 my mother had another eye surgery for the right eye as it could not be operated during the previous surgery due to her age. She required my assistance for another 2 weeks due to prescribed limited activity.
- Due to the onset of the COVID19 pandemic, testing dates for CPA exams were not available for a couple months. The first appointment available to take the last part was for May 2020.
- On 04/15/2020 while still trying to manage the many commitments to my ailing parents, a family member disappeared for nearly 3 weeks. I dedicated any free time I had to helping in the search. Unfortunately, she was found deceased and the emotional anguish from this event impacted my ability to study and focus while my family and I mourned our loss.
- On 04/28/20 I received an email from Prometric to advise me that the test appointment that was scheduled for May 2020 was cancelled due to the COVID 19 pandemic. Test availability was very limited afterward thus taking longer to schedule and retake the exam. Exam was rescheduled again for July 2020 and passing score was received on 08/07/2020.

I seek a permanent variance of Rule 61H1-28-0052 (1) (b), FAC, to allow an extension of 10 months and 19 days beyond the 18 months provided in the rule to retain the passing score of the REG section of the examination, and an extension of 4 months and 20 days beyond the 18 months provided in the rule to retain the passing score of the BEC section, when I passed the fourth portion of the examination on 08/07/2020.

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

I have successfully passed all four sections of the CPA, met all education and work experience requirements, and have maintained good moral character. Therefore, I establish that the purpose of the underlying statute, Section 473.306 Florida Statutes, would be met by granting a permanent variance from paragraph 61H1-28-0052 (1) (b), FAC.

**Petitioner Statements**

Thank you for taking the time to review my petition for a permanent variance of Rule 61H1-28-0052 (1) (b), Florida Administrative Code (F.A.C). I have worked very hard and have made every possible effort to pass my exams within the required timeframe. However, physical, emotional, and financial hardships created by the aforementioned circumstances and the COVID19 pandemic were major contributing factors in my inability to pass all four parts of the CPA exam within the required timeframe. I am the main caretaker for my twin children and my parents, and the COVID19 pandemic has also brought its own set of financial difficulties. As a result, these circumstances would not allow me to continue paying for additional course preparation and exam applications to retake the parts that have expired. Therefore, not obtaining my license would cause an undue hardship to my family and myself.