

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: REQUEST FOR HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL  
FACTS for  
JENNYFER URBINA**

**VW 2019-132**

**FINAL ORDER VACATING NOTICE OF INTENT TO DENY PETITION  
AND GRANTING PETITION FOR VARIANCE**

THIS MATTER came before the Board of Accountancy ("Board") pursuant to Section 120 57(2), Florida Statutes (F.S.), on January 31, 2020, in Orlando, Florida in consideration of Petitioner's Request for Hearing, attached hereto as **Exhibit A**. The matter had previously been before the Board on October 18, 2019, in Daytona Beach, Florida, for an initial review of a filed petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, attached hereto as **Exhibit B**. The Board's determination was reflected in a Notice of Intent to Deny Petition filed November 22, 2019, attached hereto as **Exhibit C**. Petitioner was present at the proceedings without counsel and presented information as required in Rule 28-106.301, F.A.C. The Board was represented by Rachelle Munson, Assistant Attorney General

**STATEMENT OF RELEVANT FACTS**

- 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 In addition to the special circumstances presented by the Petitioner during her initial filing of the petition and presentation before the Board, Petitioner identified medical issues resulting from a diagnosed hearing impairment due to a malformation at birth. Contributing to her score passage lapse, Petitioner cited in more detail the following ongoing medical issues.

- Tinnitus and ringing in the ears,
- Intense head pressure which leads to intense blinding headaches,

- Numbness to the upper right side of Petitioner's body for prolonged periods of time,
- Dizziness, nausea, and vertigo problems, often resulting in falling and balance problems.

3 Petitioner provided for this hearing various supporting medical documentation regarding the above-referenced medical issues and limitations

4. Petitioner seeks a permanent variance from Rule 61H1-28 0052(1)(b), F.A.C.

Upon consideration of the Petitioner's request, the documents submitted in support thereof, the arguments presented, and being otherwise fully advised in the premises,

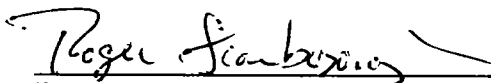
**IT IS HEREBY ORDERED AND ADJUDGED:**

5. Petitioner's request should be approved on the following grounds

- Petitioner established that the Board's strict application of Rule 61H1-28 0052(1)(b), F.A.C., given her circumstances including her ongoing medical issues and limitations, would violate principles of fairness or would impose a substantial hardship on her, and
- Petitioner established that, if she were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473 306, F.S.

**WHEREFORE**, as voted on by the Board, the prior Notice filed November 22, 2019, is vacated, and the **petition is granted**. This Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation

**DONE AND ORDERED** this 25<sup>th</sup> day of February, 2020, by the Florida Board of Accountancy

  
 Roger Scarborough, Division Director ✓

### **NOTICE OF RIGHT TO APPEAL**

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120 68, FLORIDA STATUTES, AND RULES 9 110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE , BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9 110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

### **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 146<sup>th</sup> 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](mailto:Rachelle.Munson@myfloridalegal.com) and to Tiffany Allen, Paralegal, at [Tiffany Allen@myfloridalegal.com](mailto:Tiffany.Allen@myfloridalegal.com) this 4<sup>th</sup> day of March, 2020.

Brandon M. Nichols

<b>FILED</b>	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/13/2020
File #	

### Petition for Hearing

Pursuant to Florida Administrative Code 28-106.301 Petitioner, Jennyfer Urbina, requests a hearing regarding the State of Florida Board of Accountancy Notice of Intent to Deny Petition for file number 2019-09816.

- (a) Name and Address of Agency affected:

State of Florida Board of Accountancy

240 Northwest 76<sup>th</sup> Drive

Suite A

Gainesville, Florida 32607

**RECEIVED**  
JAN 13 2020  
DIVISION OF CERTIFIED  
PUBLIC ACCOUNTING

- (b) Name, address, email and telephone number of Petitioner:

Jennyfer Urbina

10822 SW 146<sup>th</sup> Ave

Miami, Florida 33186

(305) 962-9000

[urbinajenn@aol.com](mailto:urbinajenn@aol.com)

**VW 2019-132**

- (c) Explanation of how the Petitioner will be affected by agency determination:

Petitioner has successfully completed all sections of the CPA examination and simply seeks a variance of less than nine (9) months regarding the BEC portion of the CPA exam due to her medical history as explained further herein, which were not at all addressed during the hearing held on 10.18.19 in Daytona Beach, Florida. The Agency's denial of the requested variance would cause a cascading expiration, violate principles of fairness and place an undue and substantial hardship on the Petitioner because Petitioner in the time

needed to retake the BEC section, the AUD portion will expire and similarly the FAR section will expire in the time needed to retake the AUD section.

- (d) A statement of when and how the Petitioner received notice of the agency decision:

Per the certified mail tracking information, delivery of notice of agency decision was done on December 19<sup>th</sup>, 2019

- (e) A concise statement of the ultimate facts alleged, including the specific facts the Petitioner contends warrant reversal or modification of the agency's proposed action:

The Petitioner would like for her medical history and on-going medical issues to be considered. It seems from the statement in Section 5. of the Notice of Intent to Deny Petition that the Board of Accountancy misinterpreted a statement by the Petitioner and did not consider her on-going medical matters.

Due to a malformation at birth, Petitioner has a diagnosed hearing disability and is required to use hearing aids. Her inner ear issues have caused Petitioner to deal with Tinnitus, ringing in the ears. In addition, Petitioner's disability causes her intense head pressure, which leads to intense blinding headaches, akin to chronic migraines and numbness to the upper right side of her body (from head to hand) for prolonged periods of time. At times, without prior warning, Petitioner becomes dizzy which causes unexpected nausea and equilibrium/vertigo problems, often exacerbated by losing balance and falling. Some of the falls have been severe enough to need leg braces for stabilization and therapy to avoid surgeries to her feet and tendons. Petitioner continues to participate in testing (multiple MRIs, doctors/specialists, therapist- see physician letter and medical records for timeline) to seek different type of treatments that would help. The Petitioner's disability could ultimately necessitate major surgeries that could cause permanent hearing loss.

Attached please find a letter from Petitioner's physician, Dr. Heather Mason, together with copies of medical records substantiating Petitioner's condition. Petitioner can provide additional information as requested regarding her condition.

It is this impaired hearing manifested symptoms that causes delays and difficulties in Petitioner's ability to take the CPA exam portions on the timetable prescribed; i.e. the rolling 18-months. The Petitioner has taken and passed all four (4) sections of the CPA exam; however, due to her medical condition, she is requesting a reasonable accommodation that the Board grant her a variance of less than nine (9) months as to one (1) of the four (4) sections; the BEC portion.

These disabling symptoms have flare-up during her studying and examination schedule and all along Petitioner has gravely tried to prioritize and maintain focus to the CPA examinations. However, as her medical condition worsens, it has become extremely difficult to adhere to a strict focus because of her limited concentration to even mundane daily task.

In this matter, the Petitioner's congenital impairment and disabling symptoms prevents her from accomplishing the passing of all four (4) portions of the CPA exam on an eighteen (18) rolling month timetable. The Petitioner has however shown her proficiency in accounting and her ability to pass the four (4) portions of the CPA exam, if she is provided with the necessary accommodation, i.e. a variance of less than nine (9) months in one section.

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action:

Rule 61H1-28.0052(1)(b)

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action:

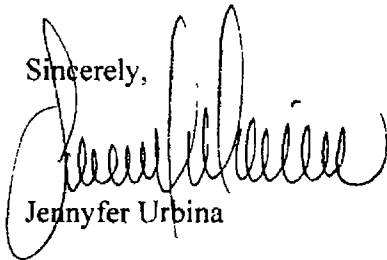
The Petitioner respectfully seeks a permanent variance from Rule 61H1-28 0052(1)(b), F.A.C. to reinstate the passing credit of the BEC section of the CPA examination which expired on September 20, 2018. The Petitioner has established that the purpose of the underlying statute, Section 473.306, Florida Statutes, would be met by granting a variance from paragraph 61H1-28.0052(1)(b), F.A.C. Further, the Petitioner has established that applying the requirements of the aforementioned rule to her circumstances would violate principles of fairness and impose substantial hardship on her due to her ~~disability~~ medical impairments.

(h) A statement that no material facts are in dispute:

No material facts are in dispute.

Thank you very much for you for your consideration in the matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennyfer Urbina", written over the printed name.

Jennyfer Urbina

COPY OF NOTICE

STATE OF FLORIDA  
BOARD OF ACCOUNTANCY

<b>FILED</b>	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	11/22/2019
File #	2019-09816

IN RE: PETITION FOR VARIANCE BY  
JENNYFER URBINA

**NOTICE OF INTENT TO DENY PETITION**

**VW 2019-132**

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




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 18<sup>th</sup> 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 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.

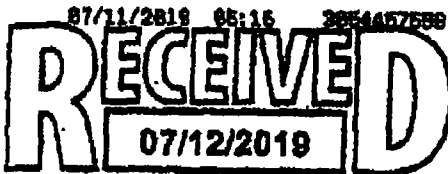
Pursuant to Section 120.573, Florida Statutes, you are hereby notified that mediation pursuant to that section is not available.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to: **Jennyfer Urbina**, 10822 SW 146<sup>th</sup> 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 22<sup>nd</sup> day of November, 2019

Brandon M. Nichols



JM MARTINEZ CPA

<b>FILED</b>	
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-00744578  
[urbinajenn@bpr.com](mailto:urbinajenn@bpr.com)  
305-862-8000

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

On March 21, 2017, petitioner successfully passed her 1<sup>st</sup> CPA section BEC, which credit unfortunately expired on September 20, 2018; subsequently, on June 19, 2019 petitioner passed her 4<sup>th</sup> 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 1<sup>st</sup> 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 SEC section credit expired 9.20.2018 and be reinstated.