

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

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

**VW 2021-104**

**NOTICE OF INTENT TO GRANT 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 June 25, 2021. The Notice of the petition appeared in the Florida Administrative Register on July 12, 2021, in Volume 47 Number 133. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Florida Board of Accountancy ("Board") on August 6, 2021, in Tampa, Florida. Petitioner was present and was represented by counsel. The Board was represented by Rachele 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 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 expired on June 30, 2021. Petitioner passed the **AUD** portion of the examination on August 6, 2020, and credit for that portion of the examination will expire on February 6, 2022. Petitioner passed the **REG** portion of the CPA examination on June 15, 2021, and credit for that portion of

the examination will expire on December 15, 2022.

3 Petitioner attributes various challenges resulting in the untimely completion of all sections of the exam including family illnesses and hospitalizations, being a single mother and caretaker of dependent children and parents, and limited testing dates due to COVID 19.

4. A rule extension provision was enacted due to COVID 19, which applied to exam credits expiring from April 1, 2020 to June 29, 2021.

5. Petitioner was required to pass all four sections of the exam by March 18, 2020, therefore, her scores were two weeks outside the eligibility window designated in the rule extension.

6 Petitioner submitted in 2020 an initial petition for a variance of Rule 61H1-28.0052(1)(b), F.A.C and, during the review of the previous petition, the Board noted that Petitioner could consider retaking the REG section of the exam as soon as possible to avoid additional section expirations.

7. Petitioner, in consideration of the Board's observations, successfully took the REG section of the exam with a documented passage date of June 15, 2021.

8 Petitioner seeks a permanent variance from Rule 61H1-28 0052(1)(b), F.A.C., requesting in part an extension of 14 days beyond the 18-months provided by rule to allow her the benefit of the rule extension provision.

#### **GROUND FOR APPROVAL**

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

9. Petitioner established that the Board's strict 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.

10 Petitioner established that, if she were granted the variance, the purpose of Section 473.306, F S , the accountancy examination statute, substantially would be met

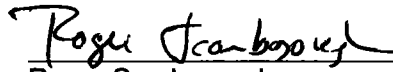
This Notice shall become effective upon filing with the Clerk of the Department of Business

and Professional Regulation.

**DONE AND ORDERED** this 20 day of August, 2021, by the

Florida Board of Accountancy

**FLORIDA BOARD OF ACCOUNTANCY**



Roger Scarborough  
Director, Division of Certified Public Accounting

**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 Jimenez**, 1880 Corsica Drive, Wellington, FL 33414; **Matthew Tornincasa, Esq**, 2700 N Military Trail, Suite 150 Boca Raton, FL 33431; 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 Cassandra Fullove, Paralegal, at Cassandra.Fullove@myfloridalegal.com this ~~30th~~ day of ~~August~~, 2021

September 2, 2021  
BMM

Brandon M. Nichols

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Senior Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	6/25/2021
File #	

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

**Petitioner Information:**

Gina Paola Jimenez  
1880 Corsica Drive,  
Wellington, FL 33414  
Phone: (954) 940-0978  
Email: gpmayorga@gmail.com  
Application # 437611

**RECEIVED**

JUN 25 2021

Florida Division of  
**Certified Public Accounting**

**VW 2021-104**

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

I passed the BEC section of the examination and received my passing score on September 19, 2018. The credit for this section accordingly expired on March 18, 2020.

I received my passing score on the FAR section of the examination on June 19, 2019, and this section will expire on June 30, 2021. I received my passing score for the AUD section of the examination on August 7, 2020, and this section will expire on February 6, 2022. I received my passing score for the REG section of the CPA examination on June 16, 2021, and my credit for this final section will expire on December 15, 2022

I previously presented myself to the board asking on September 25, 2020, and on December 11, 2020, to request a variance from the 18-month rule. Since last appearing before the Board, I have retaken and passed the Regulation section of the CPA exam. As of the filing of this petition, I have current passing scores for three of the four sections of the exam. Moreover, has the NASB scores for BEC been issued such that they expired after April 1, 2020, the COVID related extension of time would have applied, and I would presently have current passing scores for all 4 sections. I am asking for the Board to approve a variance based on the 14 days between the issuance of my BEC score and the trigger date for the COVID extension granted to all applicants.

I currently have 3 unexpired parts. Unfortunately, BEC expired on 03/18/2020 which was when the COVID-19 pandemic started. Although I have been directly impacted by COVID, I am not otherwise able to benefit from the extension given by the Board of Accountancy because it only applies to credits expiring after April 1, 2020.

The exam structure before 2020 did not allow test takers to take the test multiple times during the same window, thus allowing for only one test per quarter. Detailed below, are the dates that I attempted to take and pass the exams, as well as the extenuating circumstances that prevented me from meeting the 18-month requirement. Included in this petition, I have added all the supporting documents 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. His months long recovery, recuperation and rehabilitation from this surgery required my undivided assistance, as he was restricted in the activities he could perform.
- Two months later, on 08/14/2018 my father was admitted to the hospital for a total hip replacement surgery requiring 3 days of hospitalization and further assistance. Once he was discharged, he required multiple follow up visits and my assistance with the postoperative instructions and therapy 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 three-year-old son, one of a set of twins, was taken to the emergency room after suffering 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 I would not 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 impacted my exam performance.

- On 10/01/2019 I took my father to the hospital again due to blood clot issues and was advised that he needed to have a bone marrow procedure to address the issues he was experiencing.
- On 10/03/2019, my father was admitted to the hospital for a hernia surgery. During his recovery, he required my continued assistance for close to a month, as he was very limited in the activities that he could perform.
- In November 2019, my daughter, the other twin, who was also just 3 years old at the time, developed a severe eye condition, which required treatment, office visits, and therapy.
- On 11/30/2019 I took the Audit Section of the CPA exam.
- On 01/8/2020 after 2 months of treatment, my daughter underwent corrective eye surgery. During the post-operative recovery period, 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 a left eye surgery. During her recovery, she required my assistance for a period of several weeks due to prescribed limited activity.
- On 03/12/2020 my mother had another eye surgery for her right eye as it could not be operated during the previous surgery due to her age. She required my assistance for an additional 2 weeks due to prescribed limited activity.
- On 03/10/2020 I took the Audit Section of the CPA exam again.
- 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 05/15/ 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.
- On 08/21/20 I submitted a petition for Variance and was scheduled for consideration at the Board's Meeting on 09/25/2020
- On 11/6/20 I received the notice of decision from the Board. A request for a hearing was filed on 11/19/2020
- On 12/11/20 I had an informal hearing before the Board.
- Between January and February 2021, my mother experienced medical problems requiring multiple doctor appointments and detail testing which was later diagnosed to be Breast Cancer. After such devastating news I've been taking her to surgeons, radio oncologists, and other specialists. Despite the terrible circumstances we were facing, I was still making a huge effort to work towards my CPA license.
- On 03/30/2021, I took the Regulation section of the CPA. I had previously passed this section, but my credit had expired.
- On 04/01/2021 my mother was admitted to the hospital for surgery. She stayed in the hospital and was required to have absolute supervision, therapy, and special care after discharged.
- On 04/23/2021, I took the Regulation section of the exam.
- On 06/07/2021, I took the Regulation CPA and received a passing score on 06/16/2021.

I seek a permanent variance of Rule 61H1-28-0052 (1) (b), FAC, to allow an extension of **14 days** beyond the 18 months provided in the rule to be able to benefit from the granted extension given by the Board and retain the passing score of the BEC section of the examination, when I passed the fourth section of the CPA exam on 06/16/2021.

**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. I am a single parent and the only caregiver for my elderly parents. I have to balance the demands of



working to provide for my family with trying to better my station by earning my CPA license, all while also meeting the emotional and care needs of a large household. The point of requiring all 4 sections of the exam to be passed within a narrow timeframe is to ensure the competency of individuals seeking to become Certified Public Accountants in Florida. Regrettably, the demands placed on me by my family impacted my ability to timely prepare for and pass each section. Notwithstanding, I have passed all 4 sections, some multiple times (Regulation). Therefore, I believe that I have established that the purpose of the underlying statute, Section 473.306 Florida Statutes, can still 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 made numerous attempts to pass and retake previous parts which I have already passed to meet the requirement to have passing scores for all 4 sections that are not stale. I have done so as a working single mother, who is striving to provide and care for her extended family. I am just not passing the exam sections quickly enough. Despite all the medical, physical, emotional, and financial hardships that I've been going through, I have fought and have worked tirelessly to be able to achieve my goal of becoming a CPA. If my BEC score had been released 2 weeks later, I wouldn't even need to ask for this variance. Accordingly, I humbly ask the board to take in consideration the additional facts presented by this petition. Now more than ever it is extremely difficult to go back and retake the part that has expired and the parts that are going to expire if a variance is not granted. I not only need to take care of my twin kids, my daughter's medical condition, work full time, take care of my elderly father, but I now have to be the strong and main support for my mother and her current medical condition. These circumstances will likely continue to prevent me from timely retaking the parts that have expired. Not obtaining my license would impose significant and undue hardship to my family and myself.