

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
MARINA HERNANDEZ**

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**NOTICE OF INTENT TO GRANT PETITION**

**VW 2021-083**

Petitioner, Marina Hernandez, filed a petition, as amended, for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on May 25, 2021. The Notice of the petition appeared in the Florida Administrative Register on June 2, 2021, in Volume 47 Number 106. 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 June 18, 2021, via telephone and video conference. Petitioner was present 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 September 10, 2018, and credit for that portion of the examination expired on March 10, 2020. Petitioner passed the FAR portion of the examination on December 10, 2018, and credit for that portion of the examination will expire on June 30, 2021. Petitioner passed the BEC portion of the examination on December 15, 2020, and credit for that portion of the examination will expire on June 15, 2022. Petitioner passed the AUD portion of the CPA examination on May 24, 2021, and credit for that portion of the examination will expire on November 24, 2022.

3. Petitioner identified specific hardships including the death of her husband in 2007

resulting in her becoming the sole provider for her infant son, a consistently busy work schedule thereafter, and suffering an illness which negatively impacted her ability to pass all sections within the required timeframe.

4. Petitioner previously filed a petition for variance regarding the same rule, withdrew the petition and, within a short period of time, successfully passed on May 24, 2021 the AUD portion of the exam.

5. Petitioner's REG portion of the exam expired within a few days of the effective date of an authorized COVID-19 extension period. At the time of review, Petitioner was otherwise current on all sections of the exam.

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

**GROUND FOR APPROVAL**

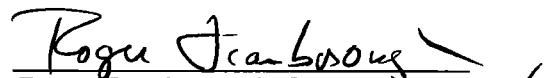
The Board determined the petition should be granted on the following grounds:

7. 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. The Board deemed relevant the proximity of the effective date of the authorized extension period to the expiration of the REG section of the Petitioner's exam.

8. 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.

This Notice shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

**DONE AND ORDERED** this 19<sup>th</sup> day of July, 2021, 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 **Marina Hernandez**, 9940 NW 11<sup>th</sup> Street, Plantation, Florida 33322; 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 Cassandra Fullove, Paralegal, at [Cassandra.Fullove@myfloridalegal.com](mailto:Cassandra.Fullove@myfloridalegal.com) this 26<sup>th</sup> day of July, 2021.

  
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<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Senior Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	5/25/2021
File #	

**PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b) Florida Division of  
18 Month Rule Certified Public Accounting**

**Petitioner Information:**

Name: Marina Hernandez  
Address: 9940 NW 11<sup>th</sup> Street  
Plantation, Florida 33322  
Phone: (305) 978-8055  
Email: mhernandez50@icloud.com  
Exam Application ID: 222143

**VW 2021-083**

**Attorney Information:**

Not Applicable

**Applicable Portions of the Rules:**

**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.

**Citation to The Statute the Rule is Implementing:**

Section 473.306 – Examination

**Type of Action Requested:**

The petitioner request that the Board of Accountancy please waive rule 61H1-28.0052(1)(b), FAC stated above due to the following circumstances.

**Specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner:**

The petitioner began working as an accountant in 2001. Two years later, the petitioner began supplementing her bachelor's degree in Business administration with undergraduate accounting courses to satisfy the admission requirements to obtain a Master's in Accounting with the ultimate goal of obtaining her CPA license.

Unexpectedly in 2007, the petitioner's husband passed away making her the sole provider for their 7-month-old son. Committed to providing a stable future for their child, the petitioner enrolled in the Saturday program at Florida International University to obtain her Master's in Accounting - completing it in the Fall of 2009.

In December of 2010, seeking a better career opportunity, the petitioner entered public accounting to work as an audit associate. The petitioner worked nights and weekends during the traditional busy season. However, given the broad and diverse practice of the firm, the petitioner worked multiple mini busy seasons as well, which required constant demands year-round.

During the petitioner's time in public accounting, she was unsuccessful in passing parts of the exam, until finally passing Audit in the Fall of 2016.

Given increasing family obligations and her relentless commitment to passing the CPA exam, the petitioner sought a better work/life balance by entering private accounting in the summer of 2017. Unfortunately, the demands at the petitioner's new job were equally as challenging and time-consuming and found herself in a similar place with little time to study. During 2017, the petitioner also have to deal with medical issues and found herself going through medical tests and biopsy procedures.

In 2018, for a few months, the petitioner was in between jobs and used this as an opportunity to devote her full attention to studying and finally pass the remaining exams. During this time, the petitioner was able to pass Financial, as well as Regulation. Having exhausted her short-term savings and with no time left to study for Business Environment and Concepts ("BEC"), the petitioner returned to private accounting towards the end of 2018.

The petitioner's new accounting job brought on unforeseen challenges, which left her with even less time to study and prepare for BEC causing her to fail the exam a total of three times.

At the beginning of the 2020 pandemic, the petitioner's company decided to allow employees to work remotely. This enabled the petitioner to have more time to study for BEC. However, the exam sites were closed leaving her a short window of opportunity to take and pass the exam. After hiring a tutor to improve the petitioner's writing skills, the petitioner passed BEC December of 2020.

The petitioner had an NTS to take AUD after BEC exam. However, three days after taking the exam, the petitioner began feeling ill and tested positive for Covid-19, and was unable to take AUD. The petitioner thinks she may have been exposed to the disease at the test site and was concerned about re-exposure. After getting vaccinated, she felt safe and retook AUD on May 14.

For all the reasons mentioned above, is why the petitioner is requesting this variance.

EXAM	EXAM	SCORE NOTIFICATION	EXPIRATION	SCORE
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	DATE	DATE	DATE	
BEC	12/7/20	12/18/20	6/15/22	77
FAR	10/12/18	12/11/18	6/30/2021	77
REGULATION	8/13/18	9/11/18	3/10/20	78
AUDIT	5/14/21	5/25/21	11/24/22	84

**Reason why the variance or the waiver requested would serve the purposes of the underlying statute:**

To the petitioner knowledge, she has met all the educational and experience requirements and is of good moral character.

**Petitioner Statement:**

The petitioner respectfully seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC and requests the 18-month window to be extended.