

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
BRITA LYNN MILLER**

NOTICE OF INTENT TO GRANT PETITION VW 2022-015

Petitioner, Brita Miller, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on February 10, 2022. The Notice of the petition appeared in the Florida Administrative Register on February 22, 2022, in Volume 48 Number 36. 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 March 18, 2022, in Orlando, Florida. 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 AUD portion of the CPA examination on March 18, 2020, and credit for that portion of the examination expired on September 18, 2021. Petitioner passed the REG portion of the examination on February 8, 2021, and credit for that portion of the examination will expire on August 8, 2022. Petitioner passed the BEC portion of the examination on February 22, 2021, and credit for that portion of the examination will expire on August 22, 2022. Petitioner passed the FAR portion of the CPA examination on February 7, 2022, and credit for that portion of the examination will expire on August 7, 2023.

3. Petitioner, in relevant part, described the following circumstances as negative conditions

impacting her ability to prepare and timely pass all sections of the CPA examination.

- Extended work hours during the pandemic health emergency.
- Beginning 2020, deteriorating health of her mother, mother-in-law, and father-in-law, for all of whom she provided care.
- Testing positive for COVID-19 in July 2021.

4. Petitioner, at the time the petition was submitted, was approximately four (4) months and twenty (20) days outside the 18-month window for passage of FAR pursuant to the rule requirement.

5. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C., to allow an extension of the eighteen-month rule requirement.

GROUND FOR APPROVAL

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

6. Petitioner's personal and family illness-related hardships were considerations in the Board's approval; however, the additional work requirements resulting from the pandemic were not a material consideration. The Board concluded that Petitioner's proximity for compliance with the eighteen-month rule requirement was noteworthy.

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.

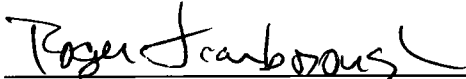
8. Petitioner established that, if she were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, F.S.

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

DONE AND ORDERED this 13th day of April, 2022, by the

Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY


Roger Scarborough, Division Director ✓
Division of Certified Public Accounting

NOTICE OF RIGHT TO HEARING


This notice constitutes final agency action if no request for a hearing is received by the Board on or before the twenty-first (21st) day after the applicant's receipt of the notice. The applicant may request a hearing by filing an appropriate petition with the Division Director of the Board at 240 Northwest 76th Drive, Suite A, Gainesville, FL 32607. The applicant or petitioner may petition for a hearing involving disputed issues of material fact before an administrative law judge pursuant to Section 120.57 (1), Florida Statutes, or for a hearing not involving disputed issues of material fact pursuant to Section 120.57 (2), Florida Statutes.

A petition for a hearing involving disputed issues of material fact must contain information required by Rule 28-106.201, Florida Administrative Code, **including a statement of all disputed issues of material fact**. The Board may refer a petition to the Division of Administrative Hearings for assignment of an administrative law judge only if the petition is in substantial compliance with the rule requirements. A petition for a proceeding not involving disputed issues of material fact must contain information required by Rule 28-106.301, Florida Administrative Code, including a concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle petitioner to relief.

In accordance with Section 120.573, Florida Statutes, mediation 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 **Brita Miller**, 2809 Mandarin Meadows Dr. South, Jacksonville, FL 32223; 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; Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com; and Tracy Smith at Tracy.Smith@myfloridalegal.com this 12th day of April, 2022.



FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/10/2022
File #	

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

Petitioner Information:

Brita Lynn Miller
2809 Mandarin Meadows Dr. South
Jacksonville, FL 32223
Phone: (904) 497-6280
E-mail: bmillier.reconcile@gmail.com
National Candidate ID # 906945

RECEIVED

FEB 10 2022

Florida Division of
Certified Public Accounting

Attorney Information:

Not Applicable

VW 2022-015

Applicable Portions of the Rules:

61H1-28.0052(1)(b): Number of Sittings, 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 requests that the Board of Accountancy please waive rule 61H1-28.0052(1)(b), FAC stated above due to the circumstances that follow.

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

1. The petitioner took (and passed) her first CPA Exam (Auditing and Attestation dated 3/19/2020).
2. At the onset of the pandemic, her department did not have enough staff to cover demand. However, a hiring freeze was implemented at that time and a staff accountant resigned shortly thereafter. Unable to fill the position, or bring on more help, the result was the petitioner working extended hours to help cover the business need.
 - a. Please see attached letter from her CFO confirming this information & additional details.
3. In April of 2020, the petitioner's mother-in-law and father-in-law's mental condition began to worsen. One is diagnosed with Alzheimer's and the other with Dementia. To this day, she and her husband alternate with his brother's family each week staying with/taking care of them.
4. In May of 2020, the petitioner's mother was diagnosed with breast cancer. For eight months, she had to take her mother to chemotherapy appointments.
 - a. The petitioner was still working on additional tasks for her employer during this time, which required working later hours to make up for the lost time.
5. Realizing the need to make progress, in November of 2020, the petitioner paid for the Notice to Schedule for both the Business Environment & Concepts and Regulation exams.

6. The petitioner received notification that the Notice to Schedule for both exams was to expire. With everything going on, and limited time to study, she scheduled the exams and passed them within two weeks of each other (2/09/2021 for REG and 02/23/2021 for BEC).
7. In July 2021, the petitioner tested positive for Covid.
 - a. See attached positive test confirmation. Due to business need, the petitioner did not take time off. Instead, she worked remote while sick with Covid.
8. Understanding that time to take the final exam was drawing near, in August 2021, the petitioner applied for the last Notice to Schedule for the FAR Exam. Again, with limited time to study, the exam was scheduled. Unfortunately, the petitioner failed the section with a score of 65.
 - a. Had she passed, it would have been within the 18-month window. However, there was not time to reschedule the exam before the AUD section expiration date.
9. Upon reflection of work-related events and personal extenuating circumstances, the petitioner searched online for extension options related to the CPA exam. She found a contact listed, Mr. Roger Scarborough, and sent an e-mail inquiry on 01/13/2022 regarding any options available, also providing an outline of events.
10. The petitioner received a response from Mr. Scarborough explaining that she would need to pass all 4 sections to petition for a waiver of the 18-month rule. He also explained that there was an emergency rule expanding credits expiring April 1, 2020, to June 29, 2021. However, the petitioner's credit dates fell outside of that window.
11. Knowing a petition for a waiver existed, the next day, on 1/14/2022, the petitioner applied to retake the FAR exam, received the notice to schedule on 1/18/2022, and scheduled the exam for the first available Saturday thereafter, on 01/22/2022.
12. On 02/08/2022, the results posted showing the petitioner passed the final section, Financial Accounting and Reporting. While she has until 08/08/2022 to retake and pass the Audit section, the concern is the lack of time to study while training new employees, in addition to taking care her in-laws. However, she has passed each section successfully, even with little to no time to study. Due to these reasons, the petitioner respectfully requests an extension.

Exam Section	Credit Score Date	Credit Expiration Date
Auditing and Attestation	03/19/2022	09/18/2021
Regulation	02/09/2021	08/08/2022
Business Environment and Concepts	02/21/2021	08/22/2022
Financial Accounting and Reporting	02/08/2022	08/07/2023

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

To the petitioner's 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.