

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
FABIOLA RICHARDS**

VW 2022-077

NOTICE OF INTENT TO GRANT PETITION

Petitioner, Fabiola Richards, 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 22, 2022. The Notice of the petition appeared in the Florida Administrative Register on July 29, 2022, in Volume 48 Number 147. 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 September 23, 2022, in Orlando, Florida. Petitioner was present and was not represented by legal counsel. The Board was represented by Rachelle Munson, Senior 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 November 9, 2020, and credit for that portion of the examination expired on May 9, 2022. Petitioner passed the FAR portion of the examination on May 10, 2021, and credit for that portion of the examination will expire on November 10, 2022. Petitioner passed the REG portion of the examination on January 10, 2022, and credit for that portion of the examination will expire on July 10, 2023. Petitioner passed the AUD portion of the CPA examination on July 11, 2022, and credit for that portion of the examination will expire on January 11, 2024.

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

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

- Personal health complications due to her infection with COVID-19 and, subsequently being pregnant. The pregnancy conditions caused her to leave her job.
- Family health issues including Petitioner husband's emergency surgery due to an appendicitis and Petitioner becoming a caregiver to her mother after the mother had arm surgery.

4. Petitioner, at the time the petition was submitted, is approximately two (2) months and three (3) days outside the 18-month window for passage of AUD 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. Given the recognized hardship, 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 24 day of October, 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

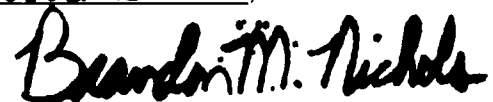
This notice constitutes final agency action if no request for a hearing is received by the Board on or before the twenty-first (21st) day after the applicant's receipt of the notice. The applicant may request a hearing by filing an appropriate petition with the Division Director of the Board at 240 Northwest 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.

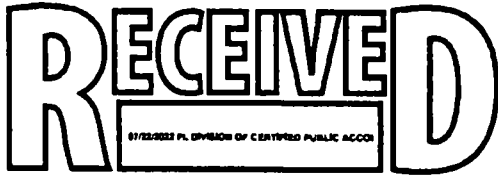
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to **FABIOLA RICHARDS**, 75 Coral Drive, Safety Harbor, FL 34695; 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, Senior Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com; Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com; and Tracy Smith at Tracy.Smith@myfloridalegal.com this 1st day of November, 2022.



From:

07/22/2022 14:43



FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK: Brandon Nichols
Date: 7/22/2022
File #:

PETITION FOR WAIVER OR VARIANCE of BOARD OF ACCOUNTANCY RULE(S)

July 22, 2022

Petitioner Information:

Fabiola Richards
75 Coral Dr
Safety Harbor FL, 34695

VW 2022-077

Applicable Portions of the Rule:

Petition for Permanent Variance from the rule 61H1-28.0052(1)(b): Number of sittings, and granting of credit, release of grades and completion of examination, transition rules.
(1)(b) Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period. If a candidate passes one or more test sections outside 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:

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

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

The petitioner completed her bachelor's degree in Accounting in December 2018. In 2019 she went back to school to gather the required credit hours to sit for the CPA exam. In 2020 the petitioner began her journey to sit for the CPA exam with a first unsuccessful attempt on June 14, 2020. With extreme precaution and care due to the ongoing and unknown conditions of COVID-19 and pre-existing conditions of the petitioner (Asthma and severe allergy reactions with multiple hospitalizations), the petitioner was able to sit and pass the first exam on Business Environment Concepts ("BEC") on November 10th 2020, when the 18th month time frame to complete all four sections of the exam began.

After passing FAR on April 14, 2021, and in sight of loosening restrictions and the country opening back up from covid, the petitioner felt more comfortable and began to go

outside again and got a full-time job with a CPA firm on sight, to begin working on the required working hours for licensure. For two years the petitioner was able to avoid getting sick from Covid-19 by taking proper care and following the CDC guidelines and staying inside. Unfortunately, by December 28 the petitioner began feeling sick and on January 03, 2022, the petitioner got infected with covid. The petitioner was sick for 3 weeks and had to put a stop to studying for the exam. Covid cause the petitioner fever, chills, and a few asthma attacks, all which prevented her from getting out of bed. This delayed the whole study process, and retake timing. After feeling better and testing negative for covid, she returned to her full-time job ready for tax season, and continued her studies to pass her last exam AUD.

In January 25, her husband got appendicitis and went for an emergency surgery the same day. With limited ambulatory restrictions and narcotic pain medications, her attention was turned to her husband, and she had to limit her studies once again. A month later she began feeling sick again and went to the doctor and found out she was pregnant. The pregnancy has been very tough and until now it continues to be (She is now six months and symptoms persist). Due to constant nausea, dizziness, and developed anemia (which makes her very fatigue) and extended labor hours studying for the exam her symptoms also led her to leave her job at the firm on April 15, 2022 (after tax season). On April 18, 2022, the petitioner's elder mother who had been having pain in her shoulder for a year, had arm surgery. The petitioner became her mother's caretaker, helping her mother to get dress, feed her, take her to the bathroom, handling her medicine, taking her to doctor appointments etc.

Nevertheless, with full devotion to pass the last exam she continued to study and took the AUD exam on May 7, 2022, two days before her BEC exam credit expired. Unfortunately, she got a 73. It was not until June 30, 2022 (her 5th attempt) that she passed the last exam AUD, only one month and a half after her BEC credit expired.

This unprecedented times with covid and personal circumstances have been difficult to work through. Going through the application process of NTS and other paperwork to be approved before taking the exam, delayed the dates to retake even further. Without the circumstances presented (Covid, cancellation of one of the tests, husband getting appendicitis and emergency surgery, pregnancy, loss of income, and mothers' surgery & care) all pass in exams within the eighteen-month period.

Exam	Date Taken	Date Received Credit	Expiration	Score
BEC	10-23-2020	11-10-2020	05-09-2022	76
FAR	04-14-2021	05-11-2021	11-10-2022	78
REG	12-17-2021	01-11-2022	07-10-2023	84
AUD	06-30-2022	07-12-2022	01-11-2024	80

The reason why the variance requested would serve the purpose of the underlying legislation

The petitioner has successfully passed all exam and is of good moral character. She firmly believes that if it wasn't for the circumstances stated above, she would have passed all exams within the eighteen-month period.

Petitioner Statement:

The petitioner respectfully seeks a permanent variance from Rule 61H1-28.0052(1)(b). FAC and requests the 18-month window be extended which will allow to re-instate the petitioner's BEC credit