

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
LINDSAY ZAJAC**

VW 2021-171

NOTICE OF INTENT TO GRANT PETITION

Petitioner, Lindsay Zajac, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on November 29, 2021. The Notice of the petition appeared in the Florida Administrative Register on December 20, 2021, in Volume 47 Number 244. 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 January 28, 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 BEC portion of the CPA examination on March 9, 2020, and credit for that portion of the examination expired on September 9, 2021. Petitioner passed the AUD portion of the examination on August 24, 2020, and credit for that portion of the examination will expire on February 24, 2022. Petitioner passed the FAR portion of the examination on September 14, 2021, and credit for that portion of the examination will expire on March 14, 2023. Petitioner passed the REG portion of the CPA examination on November 8, 2021, and credit for that portion of the examination will expire on May 8, 2023.

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.

- Closure of Prometric sites and stay at home orders due to Covid- 19.
- Multiple failed attempts to pass AUD and FAR sections of the exams due to unforeseen challenges created by the pandemic, transitioning to a remote working environment and increasing work demands.
- Hospitalization due to illness

4. Petitioner, at the time the petition was submitted, is approximately two (2) months outside the 18-month 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 illness-related hardship was a key consideration in the Board's approval; however, the Petitioner's work demands were not a material consideration. Given the recognized hardship, the Board concluded that Petitioner's two-month proximity for compliance with the eighteen-month rule requirement was noteworthy.

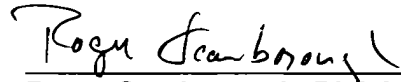
7. Petitioner established that the Board's strict application of Rule 61H1-28.0052(1)(b), F.A.C., to her circumstances, would violate principles of fairness or would impose a substantial hardship on her.

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 8th day of February, 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

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 76th 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 **Lindsay Zajac**, 440 York Street, Gulf Breeze, FL 32561; 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; Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com; and Tracy Smith at Tracy.Smith@myfloridalegal.com this 15th day of February, 2021.
2022 (SM)

Brandon M. Nichols

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	11/29/2021
File #	

RECEIVED

NOV 29 2021

Florida Division of
Certified Public Accounting

Petition for Variance From Rule 61H1-28.0052(1)(b)
18 Month Rule

November 23, 2021

VW 2021-171

Petitioner Information:

Name: Lindsey Zajac
Address: 440 York Street
Gulf Breeze, FL 32561
Phone: 219-742-1405
Email: linzajac@gmail.com
Exam Application ID: Florida 371726

Attorney Information:

Not Applicable

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, 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 eighteenmonth 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 following circumstances.

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

The petitioner completed 150 credit hours to sit for the CPA exam in June 2018, by obtaining her bachelor's degree in Accounting. In October 2018, the petitioner began working as an audit associate. Due to ongoing turnover in staff and a diverse practice of the firm, the petitioner worked nights and weekends during mini busy seasons and traditional busy seasons. This year round demand was often challenging and time-consuming, interfering with time to study and a work/life balance. The petitioner took her first exam in June 2018, but after multiple failed attempts in 2018, 2019, and 2020, the petitioner did not pass her first exam of Business Environment Concepts ("BEC") until March 2020 when the 18 month time frame to complete all four sections of the exam began. Due to the start of the pandemic, Prometric testing sites were closed for sixty days which hindered the petitioner's ability to take any exams during this time. In addition to this, state-wide stay-at-home orders and ongoing recommendations to minimize

both contact with others and travel have created continuous conflicts related to planning, scheduling, and sitting for exams.

After testing resumed, the petitioner started taking the next exam of Audit (“AUD”), but had two unsuccessful attempts. The petitioner’s second exam of AUD that she received credit was in August 2020. Due to unforeseen challenges created by the pandemic, transitioning to a remote working environment, and increasing work demand, the petitioner was unsuccessful in passing the third exam of Financial (“FAR”) with three unsuccessful attempts of FAR. It was not until September 2021, six days before the credit of the petitioner’s first exam of BEC would expire, that the petitioner passed the third exam of FAR.

In an effort to pass the remaining exam of Regulation (“REG) to complete the CPA examination process, the petitioner took REG two days before the credit of BEC would expire after having to reschedule due to an illness that caused the petitioner to be hospitalized. The petitioner was unsuccessful in this attempt. The petitioner emailed the Board of Accountancy to inquire if the petitioner could have an extension of time to complete the CPA examination process. It was communicated on September 28, 2021, that the petitioner would need to pass all four CPA exams, in order to request a waiver or variance of the 18 month rule. Although this was communicated after the date of expiration of the petitioner’s BEC credit, the petitioner scheduled her last on exam on October 7, 2021.

The petitioner was fully devoted to passing the exam to obtain her license. The petitioner successfully passed the last exam of REG when taking it October 7, 2021, and receiving credit on November 9, 2021. To date, the petitioner has obtained necessary work experience, is up to date on CPE hours, and has passed all four of the CPA exams.

Due to the petitioner’s circumstances during her testing period and subsequent successful completion of the remaining exam, the petitioner is requesting permanent variance from Rule 61H1-28.0052(1)(b).

Exam	Date Taken	Date Received Credit	Expiration	Score
BEC	2/24/2020	3/11/2020	9/9/2021	81
AUD	8/4/2020	8/25/2020	2/24/2022	78
FAR	9/3/2021	9/15/2021	3/14/2023	77
REG	10/7/2021	11/9/2021	5/8/2023	77

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

The petitioner successfully passed all exams, is current with regard to continuing education, and is of upright moral character.

Petitioner Statement:

The petitioner respectfully seeks a permanent variance from Rule 61H1-28.0552(1)(b). FAC and requests the 18 month window extended in order to complete the CPA exam process and reinstate the petitioner’s credit of BEC.