

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
ASHLEY FLAUM**

VW 2022-132

NOTICE OF INTENT TO GRANT PETITION

Petitioner, ASHLEY FLAUM, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on December 2, 2022. The Notice of the petition appeared in the Florida Administrative Register on December 8, 2022, in Volume 48 Number 237. 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 February 9, 2023, 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 December 15, 2020, and credit for that portion of the examination expired on June 15, 2022. Petitioner passed the AUD portion of the examination on December 15, 2021, and credit for that portion of the examination will expire on June 15, 2023. Petitioner passed the REG portion of the examination on February 22, 2022, and credit for that portion of the examination will expire on August 22, 2023. Petitioner passed the FAR portion of the CPA examination on November 22, 2022, and credit for that portion of the examination will expire on May 22, 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.

- Petitioner states due to the COVID-19 pandemic, several testing centers were closed, which hindered her ability to take the exam.
- Petitioner also referenced the IRS' extension of the federal tax filing deadlines, resulting in an extended busy work season.

4. Petitioner, at the time the petition was submitted, is approximately five (5) months and seven (7) 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. Given the presented hardship information, the Board concluded that the impact of testing center closures due to COVID, not the busy work season, was the key consideration in granting the waiver.

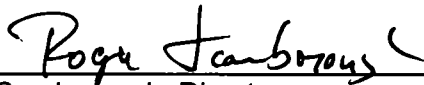
7. Petitioner established that the Board's strict application of Rule 61H1-28.0052(1)(b), F.A.C., to her circumstances, would violate principles of fairness or would impose a substantial hardship on her.

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 14 day of February, 2023, by the
Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY



Roger Scarborough, Director
Division of Certified Public Accounting
for William Blend, Chair

NOTICE OF RIGHT TO HEARING

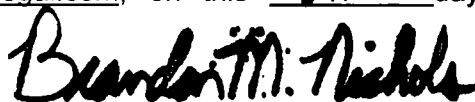
This notice constitutes final agency action if no request for a hearing is received by the Board on or before the twenty-first (21st) day after the applicant's receipt of the notice. The applicant may request a hearing by filing an appropriate petition with the Division Director of the Board at 240 Northwest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

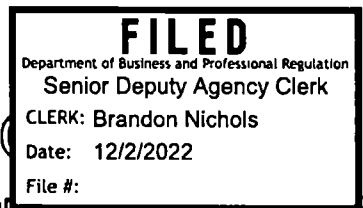
A petition for a hearing involving disputed issues of material fact must contain information required by Rule 28-106.201, Florida Administrative Code, ***including a statement of all disputed issues of material fact.*** The Board may refer a petition to the Division of Administrative Hearings for assignment 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 **ASHLEY FLAUM**, 528 N. Valrico Road, Valrico, FL 33594 and at ashleyiflaum@gmail.com; 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; Tracy Smith at Tracy.Smith@myfloridalegal.com; and to Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com; on this 21st day of February, 2023.





REC

DEC 6 2022

PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)

December 1, 2022

Florida Division of
Certified Public Accounting

Petitioner Information:

Ashley Flaum
528 N Valrico Road
Valrico FL, 33594
Phone: 203-631-2927
Email: ashleyflaum@gmail.com
Jurisdiction ID: Florida 01659026
National Candidate ID: 000000000938808

VW 2022-132

Applicable portion of the rule:

61H1-28.0052(1)(b), F.A.C.

Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.

"(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 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, F.S. Examinations

Type of action requested:

The Petitioner respectfully requests that the Board of Accountancy please waive Rule 61H1-28.0052(1)(b).

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

The petitioner began studying and preparing for her CPA examinations in the fall of 2020, and she passed the Business Environment and Concept (BEC) exam in December 2020. The petitioner had every intention to complete all four examinations within the eighteen-month period as stated in the rule previously mentioned. However, in the spring of 2021, the Covid-19 virus spread among the United States, and the pandemic issued a public health emergency. As a response to the pandemic, the Prometric testing centers were closed from March 2021 to May 2021 which hindered the petitioner's ability to take any exams during this time. Furthermore, at the time of the pandemic, the petitioner was working for a public accounting firm as a tax associate. During the spring of 2021, the Internal Revenue Service (IRS) extended the 2020 federal income tax filing deadline from April 15, 2021, to July 15, 2021. As a result, the petitioner continued to work busy season hours, having to miss valuable study time, for an additional three months. The pandemic, testing center closures and an extended busy season were significant hardships on the petitioner and made it an impossible task to complete any examinations for the first half of the year 2021.

After the 2021 busy season ended, the petitioner began studying again and in December 2021, she passed the Audit exam. Then in January 2022, she was successful in passing the Regulation exam. The petitioner sat for the Financial Accounting and Reporting (FAR) exam in April 2022 but did not pass the exam. The petitioner was determined to pass the FAR exam, before her BEC credit expired in June 2022, and she scheduled to retake FAR at the beginning of June. Unfortunately, in May of 2022, the petitioner was diagnosed with SAR-CoV-2 (COVID 19) (See attached Exhibit A). She suffered from a severe fever, fatigue, and other flu-like symptoms for the first week; however, severe exhaustion and brain fog lasted for another six weeks. The primary symptoms of brain fog- memory loss,

decreased attention span, and inability to focus for an extended period of time during this period impacted the petitioner's ability to study for the FAR exam scheduled in June. The petitioner failed the June FAR exam. The petitioner was fully committed to passing the FAR exam, she continued to study, and in November 2022, passed the FAR exam. Please see below for the listing of the CPA exams and the date on which the petitioner successfully passed the exams.

Business Environment and Concepts: Received 12-16-2020 (Expired on 06-15-2022)

Auditing and Attestation: Received 12-16-2021

Regulations: Received 02-23-2022

Financial Accounting and Reporting: Received 11-22-2022

In closing, there were several extenuating circumstances that caused significant hardships for the petitioner over the last two years (2021 to 2022), which caused the petitioner undue hardship to adhere to the rule listed as 61H1-28.0052(1)(b), F.A.C.

The reason why the variance requested would serve the purposes of the underlying statute:

The petitioner has passed all four exams and has completed the one-year work requirement. Furthermore, she is of good moral character and is in the process to complete the 150 credit hours by the fall of 2023.

Petitioner Statement:

The petitioner respectfully seeks a permanent variance from rule 61H1-28.0052(1)(b), F.A.C., and reinstate the petitioner's credit for the Business Environment and Concepts exam.