

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
GAILENE GUMBS**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/5/2018
File #	2018-08323

ORDER GRANTING PETITION

VW 2018-168

Petitioner, Gailene Gumbs, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on August 1, 2018. The Notice of the petition appeared in the Florida Administrative Register on August 7, 2018, in Volume 44 Number 153; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on September 20, 2018, in Daytona Beach, Florida. Petitioner made an appearance.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for licensure as a certified public accountant (CPA).
2. Rule 61H1-28.0052(1)(b), FAC, provides in 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."
3. Petitioner passed the AUD portion of the CPA examination on August 22, 2016, and credit for that portion of the examination expired on February 22, 2018. Petitioner passed the REG portion of the CPA examination on September 19, 2016, and credit for that portion of the examination expired on March 19, 2018. Petitioner passed the BEC portion of the examination on December 7, 2016, and credit for that portion of the examination expired on June 7, 2018. Petitioner passed the FAR portion of the examination on June 25, 2018, and credit for that portion of the examination will

expire on December 25, 2019.

4. During the 18-month window, Petitioner states that she began experiencing an undiagnosed medical issue and is currently under the care of a specialist. Further, the restructured CPA examination (released in April, 2017) delayed the release of examination scores and further delayed Petitioner's moving forward with her studies. Petitioner sat for the FAR portion of the CPA examination in July 2017 and did not find out that she failed the examination until September 19, 2017. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of four (4) months and three (3) days beyond the eighteen months provided in the rule to retain the passing score on the AUD portion of the examination until June 25, 2018, when she passed the fourth portion of the examination. She also seeks an extension of three (3) months and six (6) days beyond the eighteen months provided in the rule to retain the passing score of the REG portion of the examination until June 25, 2018, when she passed the fourth portion of the examination. Finally, Petitioner seeks an extension of eighteen (18) days beyond the eighteen months provided in the rule to retain the passing score of the BEC portion of the examination until June 25, 2018, when she passed the fourth portion of the examination.

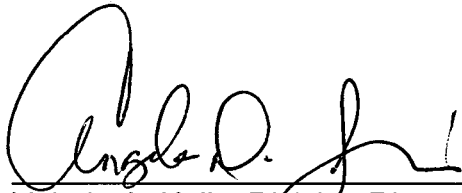
GROUND FOR APPROVAL

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

5. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to her circumstances would violate principles of fairness and would impose a substantial hardship on her.

6. 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, FS.

DONE AND ORDERED this 2nd day of October, 2018, by
the Florida Board of Accountancy.



Veloria A. Kelly, Division Director

NOTICE TO APPLICANT

You may seek review of this Order, pursuant to Sections 120.569 and 120.57, FS, 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), FS; your petition must contain the information required by Rule 28-106.201, FAC, 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), FS; your petition must include the information required by Rule 28-106.301, FAC, 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, FS, 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 Gailene Gumbs, 17232 133rd Avenue, Apt 4d, Jamaica, New York 11434, and to Kenneth J. Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Rachelle Munson, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 5th day of October, 2018.

Brandon M. Nichols

Jonathan Zchem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Jonathan Zchem, Secretary
Reginald Dixon, Chief of Staff

FROM: Paul Waters, Deputy Secretary

SUBJECT: Delegation of Authority

DATE: September 12, 2018



I, Paul Waters, hereby delegate to Angela Francis, signature authority on behalf of Director Veloria Kelly due to a medical emergency. All documents signed on Director Kelly's behalf should have a copy of this Delegation of Authority attached.

PW/tr

FROM :

FAX NO. :18645822228

Jul. 31 2018

FILED

Department of Business and Professional Regulation

Deputy Agency Clerk

CLERK Brandon Nichols

Date 8/1/2018

File #

PETITION FOR WAIVER OF RULE 61H1-28.0052(1)(b), FAC

Petitioner Information:

Gailene Jennifer Gumba
17232 133rd Ave Apt 4d
Jamaica, NY 11434
Phone: (239) 671-0004
Application #: 376403

VW 2018-168

RECEIVED

AUG 01 2018

BY:

Attorney Information:

Not applicable

RECEIVED

AUG 01 2018

DBPR Agency Clerk

Applicable portion of the rule:

61H1-28.0052(1)(b), Number of sittings

"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, FS-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 her personal circumstances.

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

After 11 years of being out of school, I returned in January 2013 to pursue my bachelor's degree in accounting and graduated in June 2016. Having obtained the required 120 educational credits to sit for the CPA Exam, I paid out of pocket for the necessary study materials and passed my first section, AUD, on August 27th, 2016. I then passed REG on September 20th, 2016 and BEC on Dec 11th, 2016, but did not pass FAR until June 27th, 2018 due to the following circumstances:

In November 2016, now unemployed from my full-time job, I needed to focus on my job search as I was not only supporting myself, but also my temporarily disabled mother. I was offered a paid internship with Deloitte & Touche, LLP for the 2017 busy season. Due to a rigorous 50-60-hour work week and a 4-hour daily commute from Fort Myers to Miami, I was unable to devote the necessary time to studying for the CPA Exam.

After my internship ended on March 11, 2017, I continued to search for employment, but also needed to study for the Graduate Management Admission Test (GMAT). I had to prioritize studying for the GMAT in order to begin a Master's in accounting program in Fall 2017. Therefore, I completed the GMAT first on March 30, 2017, then continued studying again for FAR. Unsuccessful in securing employment, I was unable to maintain a permanent residence and

PETITION FOR WAIVER OF RULE 61H1-28.0052(1)(b), FAC

had to give up my apartment. At this point, I was about 7 months into the 18-month period and continued studying for FAR but needed to reschedule my exam date twice – in May and June, as I had become self-employed, and my income fluctuated more than my financial responsibilities. I sat for FAR in July 2017 but did not find out that I did not pass until September 19th, 2017. Due to changes in the CPA exam resulting in a 10-week delayed score release for this testing window, it was impossible for me to retake this section prior to enrolling in Fall classes on August 9, 2017.

I continued studying for my second attempt at FAR, aware that AUD, would expire on February 22nd, 2018. While studying for the FAR Exam, I was also completing an accelerated 9-month Master's in accounting program at Indiana University under a generous fellowship. It required me to complete a substantial amount of coursework in a shorter period, while also working as a graduate research assistant with a workload that fluctuated between 12-25 hours per week. The increasing demands of studying for midterms, finals, participating in numerous group projects, and my assistantship responsibilities placed a considerable amount of mental and physical strain on me, but I knew the importance of passing the CPA Exam. Trying to balance these commitments simultaneously resulted in much anxiety and it ultimately affected both my quality of schoolwork, and my performance on the FAR exam in December 2017.

In October 2017, I began experiencing an undiagnosed medical issue that I initially wrote off as stress and tiredness, but eventually visited the school health center on December 18th, 2017. I was treated, however it recurred in January, then again in February. I spoke to my schools' nurse on call who then advised me to continue my prescribed medication and visit the health center if I still had complaints. I thought I was improving, however on April 29th, 2018 I had to visit an urgent care center. I followed up with my doctor on May 1st and was referred to the ER where unfortunately I was misdiagnosed, prescribed medication that did not work, and then discharged. I was seen by my primary care doctor in Florida on May 11th, 2018, visited the ER again on June 29th, 2018 and I am now under the care of a specialist. Although my responsibilities didn't change much over this period, I had already worked hard to make it this far and was determined to finish. On May 4th, 2018 I graduated with my Master's in accounting and I passed FAR on June 27th, 2018. I am now looking forward to starting a full-time position in Fraud Investigation with Ernst & Young, so I can complete my one-year experience requirement and earn my CPA designation.

The reason why the variance requested would serve the purpose of the underlying statute:
The petitioner has met all the educational requirements and is of good moral character. In addition, the petitioner served as a student ambassador to the FICPA while completing her undergraduate degree and was awarded 2015 accounting student of the year by her university.

Petitioner Statement:

Petitioner seeks a permanent variance from rule 61H1-28.0052(1)(b), FAC to allow an extension of four (4) months and five (5) days beyond the 18 months provided in the rule to retain the passing scores on the AUD, BEC and REG portions of the examination, when she passed the FAR portion of the examination on June 27th, 2018.