

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	12/13/2018
File #	2018-10103

**IN RE: PETITION FOR VARIANCE BY
HARIS MOORE**

VW 2018-210

ORDER DENYING PETITION

Petitioner, **Haris Moore**, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on September 19, 2018. The Notice of the petition appeared in the Florida Administrative Register on October 4, 2018, in Volume 44 Number 194; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on November 9, 2018, in Tampa, Florida. At the hearing on this matter, Petitioner was present; the Board was represented by Rachelle Munson, Assistant Attorney General.

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 BEC portion of the CPA examination on March 10, 2016, and credit for that portion of the examination expired on September 10, 2017. Petitioner passed the FAR portion of the CPA examination on August 15, 2017, and credit for that portion of the examination will expire on February 15, 2019. Petitioner passed the REG portion of the examination on June 26, 2018, and credit for that portion of the examination will expire on December 26, 2019. Petitioner passed the AUD portion of the examination on September 10, 2018, and credit for that portion of the examination will expire on March 10, 2020.

4. During the 18-month window, Petitioner states that he was the caregiver for his mother following her surgery. Petitioner also experienced delays in his examination scores being released preventing him from scheduling needed examinations. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of nine (9) months and sixteen (16) days beyond the eighteen months provided in the rule to retain the passing score on the BEC portion of the examination until June 26, 2018, when he passed the REG portion of the examination and to allow an extension of one (1) year to retain the passing score on the BEC portion of the examination until September 10, 2018, when he passed the AUD portion of the examination.

GROUND FOR DENIAL

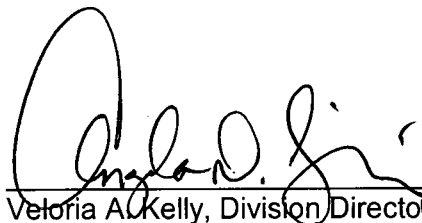
The Board determined the petition should be denied on the following grounds:

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

6. Petitioner failed to establish that, if he were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, FS.

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

DONE AND ORDERED this 7th day of December, 2018, by the Florida Board of Accountancy.


Victoria A. Kelly, Division Director


NOTICE TO PETITIONER

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 **Haris Alan Moore**, 4789 Blossom Drive, Delray Beach, Florida 33445, and to Kenneth J. 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 this 13th day of December, 2018.



Jonathan Zachem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Jonathan Zachem, 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

VW 2018-210

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	9/19/2018
File #	

Petition for Variance from Rule 61H1-28.00521(1)(b) 18 Month Rule

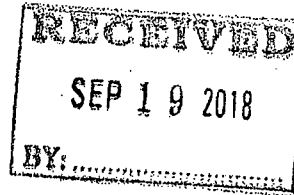
Petitioner Information:

Name: Haris Moore
Address: 4789 Blossom Drive Delray Beach, FL 33445
Phone Number: (561) 445-0727

*rec'd
9-19-2018
with Lic. Appl.*

Attorney Information:

Russell L. Forkey, Esq.
Russell L. Forkey, P.A.
1075 Broken Sound Parkway NW
Suite 103 Boca Raton, FL 33487
Phone: (561) 406-4644



Applicable Portions of the rules:

61H1-28.0052(1)(b) Number of Sittings, and Grants 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 for 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 - 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 fact that demonstrate a violation of the principles of fairness that would justify a variance for the petitioner:

The petitioner requests a permanent variance from rule 61H1-28.0052(1)(b) concerning the BEC exam passed on 2/20/2016, which has expired according to the rolling eighteen-month rule. The three other required exams have been passed within the required time period:

Subject	Date Taken	Result	Expire Date
AUD	08/31/2018	78	03/10/2020
REG	06/09/2018	77	12/26/2019
FAR	05/26/2017	83	02/15/2019
BEC	02/20/2016	77	10/09/2017

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SEP 27 2018
DBPR Agency Clerk

The request for the variance is based on the following extenuating circumstances: 1) In April of 2016, the petitioner's mother underwent ovarian cancer surgery (bilateral oophorectomy), which caused a reduction in study hours due to the care required to bring his mother back to good health. 2) In 2017, elongated delays in releasing scores, prevented the petitioner from scheduling exams to comply with rule 61H-28.0052(1)(b). 3) In September of 2017, hurricane Irma severely impacted Boca Raton, deemed a disaster recover zone by government, causing extensive damage to the petitioner's home and place of work.

**Petition for Variance from Rule 61H1-28.00521(1)(b)
18 Month Rule**

Furthermore, the testing center cancelled a scheduled exam on September 9th, which resulted in several months delay in scheduling and preparing for exams that would have allowed the petitioner to meet the eighteen-month regulation. 4) Due to the hurricane caused delay, the petitioner's employer doubled the workload and hours in the winter months, as the company's business is seasonal and required to meet important filing and testing deadlines on March 15th and in April.

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

To my knowledge, he has met all education requirements but 4 classes which he plans to take next school semester (spring 2019) and is of good moral character.

Petitioner Statement:

The petitioner seeks a permanent variance from Rule 61H1-28.00521(1)(b), F.A.C.