

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/16/2018
File #	2018-05657

**IN RE: PETITION FOR VARIANCE BY
GRAHAM WIGLE**

VW 2018-062

ORDER GRANTING PETITION

Petitioner, Graham Wigle, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on April 9, 2018. The Notice of the petition appeared in the Florida Administrative Register on April 17, 2018, in Volume 44 Number 75; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on June 14, 2018, in Orlando, Florida. At the hearing on this matter, Petitioner was present; the Board was represented by Mary Ellen Clark, Senior 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 AUD portion of the CPA examination on May 23, 2016, and credit for that portion of the examination expired on November 23, 2017. Petitioner passed the REG portion of the CPA examination on March 7, 2017, and credit for that portion of the examination will expire on September 7, 2018. Petitioner passed the BEC portion of the examination on August 21, 2017, and credit for that portion of the examination will expire on February 21, 2019. Petitioner passed the FAR portion of the

examination on March 19, 2018, and credit for that portion of the examination will expire on September 19, 2019.

4. During the 18-month window, Petitioner states that he planned to take the final portion of the CPA examination (FAR) on September 10, 2017. Due to Hurricane Irma, the testing center was closed, forcing him to reschedule the examination in a different examination window with a later score release period. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of three (3) months and twenty-four (24) days beyond the eighteen months provided in the rule to retain the passing score on the AUD portion of the examination until March 19, 2018, when he passed the fourth portion of the examination.

GROUND FOR APPROVAL

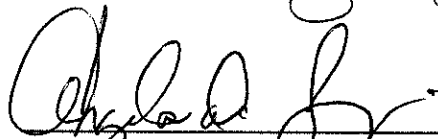
The Board determined the petition should be granted on the following grounds:

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

6. Petitioner established 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 20th day of July, 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, 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 Graham Wigle, 5429 Lake Margaret Drive, Apt. H, Orlando, Florida 32812, and to Kenneth J. Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this _____ day of _____, 2018.

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 4/9/2018
File #

PETITION FOR VARIANCE FROM RULE 61HI-28.0052(1) (b)
18 Month Rule

*** SAMPLE PETITION ***

Petitioner Information:

Name: Graham Wigle
Address: 5429 Lake Margaret Dr. Apt. H Orlando, FL 32812
Phone Number: (407) 694-7668

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BY:

Attorney Information:

Not Applicable

VW 2018-062

Applicable Portions of the rules:

61HI-28.0052(1)(b) Number of Sitzings, and Granting 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 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- Examination

Type of Action Requested:

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

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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 of the aforementioned rule, citing a hurricane-related exam cancellation as reason for failure to complete all four parts of the CPA exam within the require time window.

The petitioner has been working at a consulting firm for a year and a half. He planned to take the final CPA examination section (FAR) on September 10, 2017 in Orlando, expecting a score release date of September 25, 2017. This timeline would have permitted him, in the event of a failing score, to reschedule and retake that section prior to the expiration of the first exam credit (Audit) on November 23, 2017. Due to Hurricane Irma (September 10), the testing center was closed, forcing the petitioner to reschedule the exam into a different exam window having a later score release period. The petitioner took the exam on October 3, 2017 and received a failing result on December 19, 2017. Credit for the first exam expired during that score release period on November 23, 2017.

If the petitioner had not been forced to reschedule the final exam section due to the hurricane, he would have taken the exam on September 10, 2017, received the score on September 25, 2017, and retaken that section as planned, prior to the credit expiration on November 23, 2017. Therefore, any failure to complete the required testing in a timely manner resulted not from lack of careful planning, but due a natural disaster. Further, the petitioner notes that a passing score of 99 was received for the first exam section which expired. Given the original score and the circumstances described above, the petitioner believes that granting the requested variance would be consistent with the principle of fairness.

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

To the petitioner's knowledge, he has met all the education requirements and is of good moral character.

Petitioner Statement:

The petitioner seeks a permanent variance from Rule 61HI-28.0052(1) (b), F.A.C.