

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
YOANDRY DELGADO**

VW 2019-144

NOTICE OF INTENT TO GRANT PETITION

Petitioner, Yoandry Delgado, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on July 22, 2019. The Notice of the petition appeared in the Florida Administrative Register on July 30, 2019, in Volume 45 Number 147. 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 October 18, 2019, in Daytona Beach, Florida. Due to a state of emergency declared by the executive branch resulting from inclement weather conditions, previous proceedings were postponed, and the matter was continued until the date of this meeting. 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 FAR portion of the CPA examination on December 17, 2013, and credit for that portion of the examination expired on June 17, 2015. Petitioner passed the REG portion of the examination on November 3, 2014, and credit for that portion of the examination expired on May 3, 2016. Petitioner passed the AUD portion of the examination on February 23, 2015, and credit for that portion of the examination expired on August 23, 2016. Petitioner passed the BEC portion of the CPA examination on August 3, 2015, and credit for that

portion of the examination expired on February 3, 2017.

3. Petitioner attributes delays to two previous suicide attempts by his mother, resulting in required around the clock care and supervision, for which he shared responsibility with his father. Petitioner further asserts that he suffered from a herniated disc resulting from an automobile accident which made it difficult and painful to sit for long periods of time and study for the exam. As a result of the collective issues of working a full-time job while suffering through physical and family hardships, Petitioner attributes the emotional toll of the collective experience as main factors that negatively impacted his ability to timely pass the applicable sections within the required timeframe.

4. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of one (1) month and seventeen (17) days beyond the eighteen months provided by the rule to pass all sections of the examination, noting he passed all four sections of the exam within a twenty-month window.

GROUND FOR APPROVAL

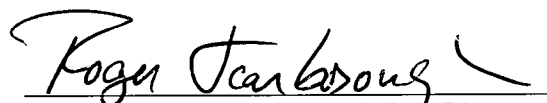
The Board determined the petition should be granted on the following grounds:

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

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, F.S.

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

DONE AND ORDERED this 18 day of November, 2019, by the
Florida Board of Accountancy.


Roger Scarborough, Division Director
Florida Board of Accountancy ✓

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 **Yoandry Delgado**, 3748 SW 153 Place, Miami, FL 33185; and 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; and Tiffany Allen at Tiffany.Allen@myfloridalegal.com this 22nd day of November, 2019.

Brandon M. Nichols

07-22-'19 15:30 FROM-

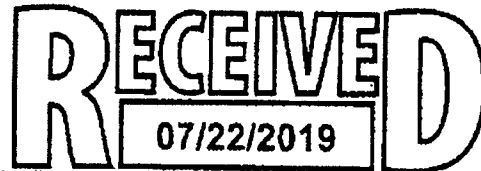
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FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/22/2019
File #	

**PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
18 Month Rule**

Petitioner Information:

Yoandry Delgado
3748 SW 153 Place
Miami, FL 33185
(305) 491-2139



Attorney Information:

Not Applicable

VW 2019-144

Applicable Portions of the rules:

Rule 61H1-28.0052(1)(b) Number of Sittings, 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 61H1-28.0052(1)(b), FAC stated above due to the following circumstances.

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

The petitioner's mother has attempted to commit suicide on two different occasions in the past. As a result, the petitioner's mother has been deemed mentally disabled and requires around the clock care and supervision. The petitioner and his father are responsible for his mother's care and supervision, which meant the petitioner often cared for his mother on nights his father worked. During this time, the petitioner was also involved in a car accident through no fault of his own and suffered a herniated disc. The herniated disc made it difficult, and at times painful, being seated for long periods of time. This, along with working full time at a public accounting firm and the emotional toll of these circumstances, made it extremely difficult to study for and pass the CPA examinations within the 18-month window. However, the petitioner did successfully pass all four CPA examinations within a 20-month window instead, as follows:

Exam	Date Taken	Score
FAR	12/5/13	78
REG	10/18/14	76
AUD	1/31/15	91
BEC	7/2/15	78

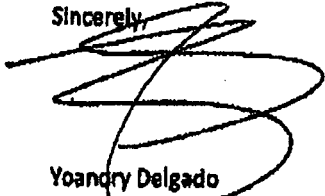
The petitioner has been working in public accounting at a certified public accounting firm since 2013, which has enabled him to stay up to date with changes in new laws, rules, and professional regulations governing the public accounting profession. The petitioner recently graduated with a Masters in Taxation degree on June 7, 2019 while still caring for his mother, recovering from his physical health and working long hours in the public accounting industry.

The reason why the variance requested would serve the purpose of the underlying statute:
To the petitioner's knowledge, he has met all the educational requirements and is of good moral character.

Petitioner Statement:

The petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C.

Sincerely,



Yoandry Delgado
(305) 481-2129
National Candidate ID: 615081