

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
WILLIAM SOLANO**

NOTICE OF INTENT TO DENY PETITION

VW 2021-160

Petitioner, William Solano, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on November 2, 2021. The Notice of the petition appeared in the Florida Administrative Register on November 23, 2021, as amended, in Volume 47 Number 227. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on December 17, 2021, in Orlando, Florida. Petitioner was neither present nor represented by counsel for the proceeding. The Board was represented by Rachelle Munson, Assistant Attorney General. The Petition is incorporated by reference 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 August 21, 2017, and credit for that portion of the examination expired on February 21, 2019. Petitioner passed the REG portion of the examination on December 10, 2018, and credit for that portion of the examination expired on June 30, 2021. Petitioner passed the AUD portion of the examination on August 1, 2019, and credit for that portion of the examination expired on June 30, 2021. Petitioner passed the FAR portion of the CPA examination on July 12, 2021, and credit for that portion of the examination will expire on January 12, 2023.

3. Petitioner identified various personal and family circumstances that contributed to his inability to prepare for and timely pass the CPA examination. Those reasons include the following:

- Work hours exceeding 50 hours per week and work-related travel
- Being head of household
- Knee-injury and surgery in 2017 and resulting “pain, suffering and emotional distress of the injury together with side effects of medicine,” and a second surgery in mid-2018
- Diminished testing center availability in 2017 due to Hurricane Matthew
- The care and eventual death of a family member in 2017 and related grief; and
- Personal physical and mental health, including a COVID diagnosis in December 2020

4. Petitioner, due to COVID considerations, previously received a board-approved extension through June 30, 2021, for the REG and AUD sections of the CPA examination.

5. Subsequent to a prior denial of a petition for the circumstances referenced herein, filed November 17, 2021 and attached hereto, Petitioner now requests that the Board permanently waive the 18-month period required by rule to allow his expired CPA examinations to be extended to March 1, 2022, or before to provide sufficient time to retake expired examinations.

6. At the time of submission, Petitioner is more than two (2) years and four (4) months outside the eighteen-month window for compliance with the rule.

GROUND FOR DENIAL

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

7. Petitioner is more than two years beyond the eighteen-month window established by rule regarding passage of all sections of the CPA exam.

8. Petitioner failed to establish that the Board’s application of Rule 61H1-28.0052(1)(b), F.A.C., to his circumstances would violate principles of fairness or would impose a substantial

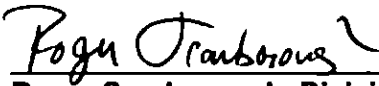
hardship on him.

9. Petitioner failed to establish that, if he was 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 22 day of December, 2021, by the Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY



Roger Scarborough, Division Director ✓
Division of Certified Public Accounting

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: **William Solano**, 1446 Polk Street, Hollywood, FL 33020, 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 Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com this 12th day of January, 2021.

2021
(Signature)

Brandon M. Nichols

FILED	
<small>Department of Business and Professional Regulation</small>	
<small>Senior Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	11/2/2021
File #	

**Petition for Variance or Waiver From Rule 61HL-28.0052(1) (B)
18-Month Rule**

Petitioner Information:

William Joel Solano
1446 Polk Street
Hollywood, FL 33020
954-600-2515
Wsolanoj@gmail.com
National Candidate ID: 767339

RECEIVED

NOV 02 2021
Florida Division of
Certified Public Accounting

VW 2021-160

Attorney Information:

No counsel has been retained.

Applicable portions of the Rules:

RULE 61HI-28.0052(1) 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- Examination

Type of Action Requested:

The Petitioner request that the Board of Accountancy permanently waive or provide a variance of six (6) months to Rule 61HI-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 began his CPA journey in 2016 by preparing to take the BEC section of the exam. Petitioner has been head of household for his family since 2013. Petitioner has been the full provider for multiple members of his family including one family member who was fully disabled during this period.

Petitioner attended a previous meeting of this board and testified as to the substantial hardships he has had to face during the course of his CPA testing including but not limited:

- The Loss of a close relative in 2016 affecting him both mentally and emotionally.
- Petitioner had undergone two surgeries, one in 2017 and another in 2018, one of them on his knee which prevented him from seating and from standing which made it very difficult to study for the exam.
- Petitioner's mother tested positive for COVID-19 and petitioner was the sole caretaker of his mother during her recovery.
- Petitioner also tested positive for COVID-19 during this time and had to seek medical attention that required recovery time.
- The petitioner took several CPA tests before the Board changed its rules that now allow test takers to take the same CPA exam during the same testing quarter. When the petitioner took his CPA exams, the rules that were in place by this board only allowed the same exam to be taken once per quarter which greatly affected the timing for petitioner to seat and pass the four exams. Petitioner took the FAR examination a total of 7 times which took a total of 7 quarters of the petitioner's time to pass the exam before his first one expired, that is a total of 21 months devoted just to pass one examination which was already over the 18-month rule. If the Board had amended its rules earlier than it did, this would have allowed petitioner with more possibilities to seat for the exam in the same quarter rather than having to wait for the next quarter to start for petitioner to sit for the same exam, shortening the amount of time it would have taken for petitioner to successfully pass his final examination.
- Several Hurricanes delayed the petitioner from taking the exam as the Prometric Center was closed during 2017-2020.

Petitioner hereby requests the board to provide a permanent waiver of the 18-month rule or to provide a variance to the rule to allow his expired CPA examinations to be extended to March 1, 2022, or before so that the Petitioner can retake BEC which is the only exam that had expired before June 26, 2021, the date in which Petitioner had successfully passed and received scores for the remaining parts of the examinations. Petitioner is currently scheduled to take the BEC examination on December 3rd, 2021, prior to the upcoming board's meeting on December 17th. This would allow petitioner to successfully have met the requirements of the CPA examination during the allotted time. Petitioner's 2 exams expired 5 months before the request of this petition, however, it is worthy to note that during the period of these 5 months, petitioner had not scheduled to sit and take the BEC portion of the Exam because petitioner was waiting for a decision to be made on the October 29th meeting in reference to his original petition. The period petitioner waited for the board to rule on his initial petition together with the time it took petitioner to prepare and submit his petition took 4 months, substantially the majority of the 5-month delay of this petition. Once this board made the decision to not extend the BEC score, petitioner re-scheduled the BEC portion of the exam to re-take the examination which had previously expired.

Taking in consideration these facts in their aggregate would suggest that Petitioner has had substantial hardships during his CPA examination and that applying the 18-month rule to his application would be a violation of the "Principles of fairness" because the rule seeks to treat petitioner in an unfair, unintended, and unreasonable way.

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

The variance requested would serve the purpose of the underlying statute because by waiving or providing a variance to the 18-month rule petitioner would not be unfairly treated as petitioner has proven to have substantial hardships during the course of taking the four examinations of the CPA. Also, by not providing the waiver or variance requested, the petitioner would be placed in an unfair position due to the multiple substantial hardships petitioner has had to undergo during his CPA journey. The substantial hardship placed on the petitioner is outside of the scope of fairness as it places great weight on the petitioner to meet the requirements provided by the statute. By applying the strict application of the 18-month rule to the petitioner a violation of the "Principle of Fairness" would occur because this would lead to an unreasonable, unfair, and unintended result as stated under FI Statute 120.542. By interpreting FI Statute 120.542 in its plain and simple terms, the board may find that the petitioner had substantial hardships during the course of taking the four CPA exams, and that such hardships placed him in an unfair position, then

the board may grant the waiver or variance requested to fulfill the legal intention of the statute provided.

EXAM	DATE OF SCORE	DATE OF EXPIRATION	SCORE
BEC (Re-Taking 12/3/2021)	08/22/2017	02/21/2019	80
REG	12/11/2019	06/30/2021	78
AUD	08/02/2019	06/30/2021	77
FAR	06/26/2021	01/12/2023	79