

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	2/22/2018
File #	2018-01337

**IN RE: PETITION FOR VARIANCE BY
DANIEL CHROST**

VW 2018-002

ORDER GRANTING PETITION

Petitioner, Daniel Chrost, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on January 3, 2018. The Notice of the petition appeared in the Florida Administrative Register on January 9, 2018, in Volume 44 Number 06; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on February 2, 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 BEC portion of the CPA examination on February 22, 2016, and credit for that portion of the examination expired on August 22, 2017. Petitioner passed the REG portion of the CPA examination on August 3, 2016, and credit for that portion of the examination expired on February 3, 2018. Petitioner passed the FAR portion of the examination on September 18, 2017, and credit for that portion

of the examination will expire on March 18, 2019. Petitioner passed the AUD portion of the examination on December 18, 2017, and credit for that portion of the examination will expire on June 18, 2019.

4. During the 18-month window, Petitioner states that due to his firm's busy season and a 70+ hour work schedule, he did not have the capacity to take the examination again until after May 2017. Petitioner states that the grading process and delayed release of examination scores due to the new examination effective April 2017, created a hardship for him. Petitioner also states that during the FAR examination on January 7, 2017, a storm passed and caused technical issues for the testing center causing the computer system to freeze for over 90 minutes, so he was unable to complete the examination. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of three (3) months and twenty-six (26) days beyond the eighteen months provided in the rule to retain the passing scores on the BEC portion of the examination, when he passed the fourth portion of the examination on December 18, 2017.

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 19th day of February, 2018,

by the Florida Board of Accountancy.

Veloria A. Kelly
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 Daniel Chrost, 825 Center Street, Unit 31-C, Jupiter, Florida 33458, and to Jesslyn Krouskroup, 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 22nd day of February, 2018.

Brendan M. Nibbel

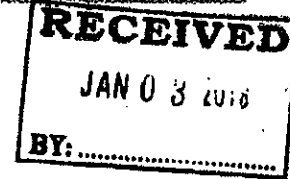
FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/3/2018
File #	

PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)

18 Month Rule

Petitioner Information:

Daniel Chrost
825 Center St. Unit 31-C
Jupiter, FL 33458
(703) 477-2848



Attorney Information:

Not Applicable

VW 2018-002

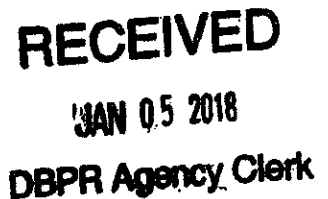
Applicable Portions of the rules:

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

The petitioner believes the drawn-out grading process and delayed release of exam scores due to the new exams effective April 2017, created a hardship for himself as well as other applicants to complete all four CPA Exams within an 18-month rolling period. According to information released by NASBA on score release dates, an exam taken in Q2 (April/May) would have the score released mid-August, and any exam taken in Q3 (July/August/September) would have the score released in mid-September. This alteration of release score dates effected his initial planned exam dates, as his BEC exam was expiring 8/22/2017. Now for his two remaining exams there would be a wait of 3 months to receive any score for an exam taken in the beginning of either the Q2 or Q3 testing window. Per his discussion with a representative from the Florida Division of Certified Public Accounting Department, he identified he would need to sit for the last exam rather than have his score released prior to any exam expiring in order to have the last exam count for the 18-month period. From this knowledge, he forged a plan to allow himself a maximum amount of time to study for the two final exams just prior to his BEC exam expiring. He unfortunately only passed one of the two exams necessary to complete his CPA Certification. Once he was informed of this information in mid-September, he attempted the final Audit exam one month later while working full time and passed.

Additionally:

January 7, 2017 the petitioner was scheduled for the FAR exam. During the exam at a Prometric Testing Center, a Storm passed and caused technical issues for the center. The system froze for over an hour and a half and he could not complete the exam. Due to this exam being taken prior to busy season (70+ hour weeks), he did not have the capacity to take the exam until after May.

The Petitioner believes that if he could have received his scores in a timely manner as in the prior year, he would have completed all four portions of the exam in the 18-month rolling period.

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:

From the most recent, release of scores, December 19, 2017. The Petitioner has now passed all four of the Sections necessary to be a CPA. He is requesting the Board will grant him an extension of one testing window on the 18-month period due to his constraint by the score release dates.

The petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.AC due to unforeseen circumstances, elongating the release of exam scores.