

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/9/2015
File #	2015-01137

**IN RE: PETITION FOR VARIANCE BY  
DANIEL F. SUAREZ**

**VW 2013-313**

**ORDER GRANTING PETITION**

Petitioner, Daniel F. Suarez, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on September 16, 2013. The Notice of the petition appeared in the Florida Administrative Register on September 23, 2013, in Volume 39 Number 185; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on December 6, 2013, in Tallahassee, Florida. At the hearing on this matter, Petitioner was present. The Board was represented by Mary Ellen Clark, 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, "[c]andidates 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 May 29, 2010, and credit for that portion of the examination expired on December 16, 2011. Petitioner passed the REG portion of the examination on May 20, 2011, and credit for that portion of the examination expired on March 22, 2013. Petitioner passed the AUD portion of the examination on April 3, 2012, and credit for that portion of the examination expired on

November 4, 2013. Petitioner passed the FAR portion of the CPA examination on July 6, 2013, and credit for that portion of the examination will expire on January 6, 2015.

4. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of time beyond the eighteen months provided in rule to retain his passing scores on the BEC and REG portions through July 6, 2013, when he passed the fourth portion of the examination.

#### GROUNDS FOR APPROVAL

The Board determined the petition should be granted and that the time period to pass all four portions of the examination be extended through July 6, 2013, 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 13<sup>th</sup> day of December, 2013,  
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 76<sup>th</sup> 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**

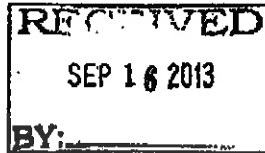
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified to Daniel F. Suarez, 1521 Tagus Ave., Coral Gables, Florida 33156, and to Jesslyn Krouskroup, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 9<sup>th</sup> day of February, 2013. <sup>2015</sup> 



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

**Petitioner Information:**

Daniel F. Suarez  
1521 Tagus Ave.  
Coral Gables, FL 33156  
305-297-8851



<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
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**Attorney Information:**

Not Applicable

**VW 2013-313****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 demonstrates a violation of the principles of fairness that would justify a variance for the petitioner:**

The petitioner has been working in public accounting at a certified public accounting firm for almost three years (it will be three years in January 2014). He is a forty two year old married father of three. He recently returned to school after a thirteen year absence in order to change careers. He continued to work and study full time and then proceeded to pass all four sections of the CPA exams. The demands of work, studying and family life proved to be more difficult than expected and he was therefore unable to complete the exams within the required time period. He did not have the financial capacity to put work aside to concentrate solely on studying for the exams and as such is requesting this variance.

**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 and work experience requirements and is of good moral character.

**Petitioner Statement:**

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

September 13, 2013

Veloria A. Kelly  
Director  
Florida Board of Accountancy  
240 NW 76<sup>th</sup> Drive, Suite A  
Gainesville, FL 32607

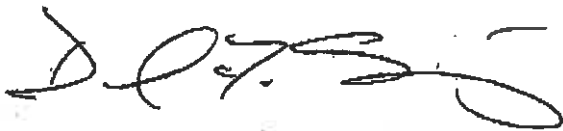
Dear Ms. Kelly:

Thank you for your letter responding to my request to waive the rolling eighteen month period rule.

I previously emailed you a copy of my petition for a permanent variance as you suggested. In case that was not the proper format to do so, I have included with this letter two copies of my petition.

Should there be any other item that is required of me, I will happily comply.

Sincerely,



Daniel F. Suarez  
1521 Tagus Ave.  
Coral Gables, FL 33156  
305-297-8851

Enclosures