

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/21/2012
File #	

**RECEIVED**

MAR 21 2012

BOARD OF ACCOUNTANCY PETITION FOR VARIANCE FROM RULE 61H1-28.0052

**Petitioner information:**

Matthew H. Liebhaber  
1252 NW 117<sup>th</sup> Ave,  
Coral Springs, FL 33071  
(H) 954-344-1558, (C) 954-663-6451

**Attorney information:**

Not Applicable

**VW 2012-094**

**Applicable portion of the rule:**

61H1-28.0052(1)(b). FAC:

"Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the date that the first test section(s) passed is taken. 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, FS – Examinations

**Type of action requested:**

The petitioner requests that the Board of Accountancy please waive 61H1-28.0052(b)(1), FAC (stated above) for his personal situation.

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

As it stands currently with NASBA, the petitioner has credit for Auditing and Attestation, which expires August 2013; Business Environment and Concepts, which expires March 2013; and Financial Accounting and Reporting, which expires June 2012. The petitioner had passed Regulation in July 2010, but due to the rolling eighteen-month window, lost credit for it during December 2011. During the period in which the petitioner had credit for all tests except for Auditing and Attestation, his grandfather (mother's father), grandmother (father's mother), and great aunt all passed away. His grandfather passed away on July 31, 2011, and his grandmother and great aunt passed away November 17, 2011. Not only was he mourning these deaths after they occurred, but he was also helping

to take care of his relatives several months before each of their deaths, as they were all severely ill prior to their passings. These tragedies, along with his continuing full-time employment at an accounting firm during a "busy season", in which he worked more than 70 hours a week from January until April, truly hindered his abilities and skills for taking the Auditing and Attestation section of the CPA Examination in time, before losing credit for the Regulation section.

**The reason why the variance 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. Due to the aforementioned specific facts, the petitioner was not able to pass all four parts of the CPA Examination within the rolling eighteen-month window, and it would therefore violate principles of fairness to not allow him to retain credit for the Regulation section of the CPA Examination.

**Petitioner Statement:**

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

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
MATTHEW LIEBHABER**

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<b>Deputy Agency Clerk</b>	
CLERK	<b>Brandon Nichols</b>
Date	<b>10/25/2012</b>
File #	<b>2012-06907</b>

**ORDER GRANTING PETITION**

Petitioner, Matthew Liebhaber, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code, on March 21, 2012. The notice of the petition appeared in the Florida Administrative Weekly on April 6, 2012, in Volume 38 Number 14; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on June 8, 2012, in Tampa, Florida. At the hearing on this matter, Petitioner was neither present nor represented by counsel. The Board was represented by Mary Ellen Clark, Assistant Attorney General.

**STATEMENT OF RELEVANT FACTS**

**VW 2012-094**

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 REG portion of the CPA examination on June 23, 2010, and credit for that portion of the examination expired on December 23, 2011. Petitioner passed the FAR portion of the examination on December 17, 2010, and credit for that portion of the examination expired on June 17, 2012. Petitioner passed the BEC portion of the examination on September 16, 2011, and credit for that portion of the

examination will expire on March 16, 2013. Petitioner passed the AUD portion of the CPA examination on February 22, 2012, and credit for that portion of the examination will expire on August 22, 2013.

4. Petitioner seeks a temporary variance from Rule 61H1-28.0052(1)(b), FAC, to allow him an extension of time from December 23, 2011, to February 22, 2012, in order to retain the passing score on the REG beyond the eighteen months, to the time that Petitioner passed the final portion of the CPA examination.

**GROUND FOR APPROVAL**

The Board determined that the petition for variance 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, Florida Statutes.

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

**DONE AND ORDERED** this 18<sup>th</sup> day of October, 2012,

by the Florida Board of Accountancy.

  
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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 Mail to Matthew Liebhaber, 1252 NW 117<sup>th</sup> Ave, Coral Springs, Florida 33071, and to Jesslyn Krouskroup, Chief Attorney, Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 W. Madison Street, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 25<sup>th</sup> day of October, 2012.

  
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