

STATE OF FLORIDA  
BOARD OF ACCOUNTANCY

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	9/29/2011
File #	2011-06700

IN RE: PETITION FOR VARIANCE BY  
RAMON ROMERO

ORDER

**VW 2011-109**

Petitioner, Ramon Romero, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code, on April 7, 2011. The notice of the petition appeared in the Florida Administrative Weekly on April 29, 2011, in Volume 37 Number 17; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on June 17, 2011, in Tampa, 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 REG portion of the CPA examination on February 28, 2009, and credit for that portion of the examination expired on September 20, 2010. Petitioner passed the BEC portion of the examination on June 10, 2009, and credit for that portion of the examination expired on February 13, 2011. Petitioner passed the FAR portion of the examination on February 16, 2010, and credit for that portion of the examination expires on September 19, 2011. Petitioner passed the AUD portion of the examination on November

30, 2010, and credit for that portion of the examination expires on June 15, 2012.

4. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow him an extension of time to retain the passing score on the REG for approximately 70 days, beyond the eighteen months, until he passed the AUD portion of the CPA examination.

**GROUND FOR APPROVAL**

The Board determined that the petition for variance should be granted and the eighteen-month period extended to November 30, 2010, 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 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 20<sup>th</sup> day of September, 2011,

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 Ramon Romero, 15631 Palmetto Club Drive, Miami, Florida 33157, 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 29<sup>th</sup> day of September, 2011.

  
Brandon M. Nichols

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/7/2011
File #	

**PETITION FOR VARIANCE FROM RULE 61H1-28.0052**

**Petitioner Information:**

Ramon Romero  
15631 Palmetto Club Drive  
Miami, FL 33157  
Phone: (305) 233-4219, Home  
(786) 556-4224, Cell  
Fax: (305) 256-6856  
ramon33143@yahoo.com

**VW 2011-109**

**Attorney Information:**

Not Applicable

**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, Florida Statutes – Examinations

**Type of action requested:**

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

**Specific facts that demonstrate a violation of principles of fairness and a substantial hardship that would justify a waiver or variance for the petitioner:**

The petitioner has been working in public accounting at Deloitte Tax, LLP, a certified public accounting firm, for a little more than two years (From 9-15-2008 to 9-25-2010 as per attached Certificate of Work Experience). He passed his first test section of the CPA Examination on 2/28/2009; copies of all Uniform CPA Examination Score Notices, Uniform CPA Examination

Confirmations of Attendance, Prometric's Appointment Confirmations, and Uniform CPA Examination Notices to Schedule for all four test sections of the CPA Examination including a Florida Board of Accountancy Information Change Request Form to change his address are attached. His plan was to put the 2<sup>nd</sup> yearly tax "busy season" behind him before taking the last section of the CPA exam since he has been working in the Private Client Advisors group at Deloitte Tax, LLP for which he had to take care of different clients' filing needs like Form 1040, Individual Tax Return; Form 709, Gift (and Generation-Skipping Transfer) Tax Return; Form 706, Estate (and Generation-Skipping Transfer) Tax Return; Form 1041, Income Tax Return for Estates and Trusts; Form 1065, Return of Partnership Income; Form 1120S, Income Tax Return for an S Corporation; and other miscellaneous States forms, most of which has a dead line of September 15 and October 15 accordingly after appropriate extensions every year. Information to complete all these returns usually arrives to the firm at the end of August of every year, which makes the 2<sup>nd</sup> yearly busy season quite heavy. Since He was equally concerned with his clients' responsibilities and obtaining his CPA licensure, he called the Florida Department of Business & Professional Regulation Division of Certified Public Accounting on August 2010 to see if he would encounter any difficulties in case he takes the last test section of the CPA Examination after the rolling eighteen-month period has ended. The representative from the Florida Department of Business & Professional Regulation Division of Certified Public Accounting verbally confirmed that it will not be a problem if this last test section of the CPA Examination was taken after the rolling eighteen-month period that should had ended at the end of August 2010 as per petitioner's calculations, time in which such petitioner was immersed in his heaviest yearly busy season. The representative from the Florida Department of Business & Professional Regulation Division of Certified Public Accounting also verbally confirmed that the petitioner might only have to reapply for licensure if the rolling eighteen-month period has ended by the time of the last test section of the CPA Examination is taken. It was the petitioner's understanding that he could take the last test section of the CPA Examination after the 2<sup>nd</sup> yearly tax "busy season," which is detrimentally heavy, and the rolling eighteen-month period has ended. Therefore, he scheduled his last test section of the CPA Examination, Prometric's payment summary dated 8/31/2010 attached, for November 30, 2010 to have 1 ½ months to properly prepare to such test after the 2<sup>nd</sup> yearly tax "busy season" has ended. If he had known that this was not the case, he would have taken the last test section of the CPA Examination before August 28, 2010.

In addition, application of the rule would create a substantial hardship to petitioner since he is no longer associated with any CPA firm that partners with Becker Professional Education to receive a discount for the needed study materials after the examination has change its format beginning in 2011, and Becker prices might total from \$3,845 to \$4,080, [www.becker.com](http://www.becker.com) (copy of Becker pricing attached). Besides, exam sections cost around \$300 each.

**\$3,065 for Becker CPA Exam Review Course**

**\$570 (with enrollment) to \$720 (after enrollment) for Becker Final Review**

**\$210 (with enrollment) to \$295 (after enrollment) for Becker Flash Cards**

**The reason why the variance would serve the purposes 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), FAC (Stated above).**

Sincerely,



**Ramon Romero**