

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/24/2018
File #	2018-02958

**IN RE: PETITION FOR VARIANCE BY
DULNY SALAZAR**

VW 2018-034

ORDER GRANTING PETITION

Petitioner, Dulny Salazar, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on February 23, 2018. The Notice of the petition appeared in the Florida Administrative Register on March 6, 2018, in Volume 44 Number 45; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on March 23, 2018, in Jacksonville, Florida. At the hearing on this matter, Petitioner was not 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 March 12, 2016, and credit for that portion of the examination expired on September 12, 2017. Petitioner passed the AUD portion of the CPA examination on June 8, 2016, and credit for that portion of the examination expired on December 8, 2017. Petitioner passed the REG portion of the examination on March 21, 2017, and credit for that portion of the

examination will expire on September 21, 2018. Petitioner passed the FAR portion of the examination on December 19, 2017, and credit for that portion of the examination will expire on June 19, 2019.

4. During the 18-month window, Petitioner states that due to Hurricane Irma, the testing center was closed on September 6, 2017. She had to reschedule to sit for the FAR portion of the examination to December 19, 2017. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of three (3) months and seven (7) days beyond the eighteen months provided in the rule to retain the passing scores on the BEC portion of the examination, when she passed the fourth portion of the examination on December 19, 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 her circumstances would violate principles of fairness and would impose a substantial hardship on her.

6. Petitioner established that, if she 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 18th day of April, 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 Dulny Salazar, 6109 SW 127th Place, Miami, Florida 33183, and to Kenneth J. Plante, 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 24th day of April, 2018.

Brandon M. Nicks

7010 1870 0000 4473 3854

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here 373037
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Pr		

Sent To
Street, A
or PO Bx
City, Sta

Dulny Salazar
6109 SW 127th Place
Miami, Florida 33183

PS Form 3800, August 2006

**Petition for Variance from Rule 61H1-28.0052(1)(b)
18 Month Rule**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/23/2018
File #	

Petitioner Information:

Name- Dulny Salazar

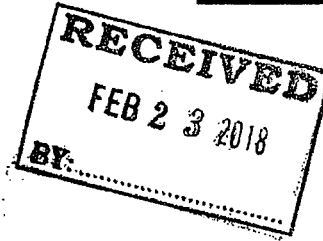
Address- 6109 SW 127TH Place, Miami, FL 33183

Phone Number- (786) 366-9978

Attorney Information:

Not applicable.

VW 2018-034



Applicable portions of the rule:

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 in 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), F.A.C. 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 has been working in public accounting at a certified public accounting firm for two years, as of January 3, 2018. Her plan was to finish her last section of the CPA exam before the exam changes were enacted in April 2017, however, due to the auditing "busy season" she was not able to do so. She sat for the exam in May and unfortunately found out she did not pass in August. The petitioner promptly scheduled to resit for the exam on September 8, 2017. However, the petitioner's testing center unexpectedly closed due to Hurricane Irma. The petitioner called the Prometric Testing Center on September 6, 2017 to ensure the testing center would not be closing due to the storm. A representative ensured her that the testing centers would remain open, which was not the case. On the scheduled day of her exam, the petitioner was informed that her only option was to reschedule her exam during the 4th quarter testing window, making it impossible for her to take the exam prior to her BEC expiration date as she originally intended. The petitioner's BEC exam was set to expire on September 11, 2017, and as of September 2017, she had passed all of her other exams, except for the FAR section. In sum, the petitioner's BEC exam expired without the petitioner having the final opportunity to pass her sole remaining exam, which she had scheduled and began studying for months in advance. The cause of her not sitting prior to the expiration window was completely out of her

RECEIVED

MAR 01 2018

DBPR Agency Clerk

**Petition for Variance from Rule 61H1-28.0052(1)(b)
18 Month Rule**

control. Moreover, she displayed diligent efforts by reaching out to the testing center as soon as Hurricane Irma appeared on the radar to see if rescheduling her exam for an earlier date was an option. Furthermore, the expiration of the BEC exam also lead to the expiration of her AUD exam, which expired on December 7, 2017 while the petitioner was waiting for her score to be released. Because the closing of the petitioner's testing center was unforeseeable and out of the petitioner's control, and the petitioner promptly rescheduled and was able to pass her final exam, which she sat for on October 9, 2017, a variance is justified.

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

To the petitioner's knowledge, she has met all the education requirements and is of good moral character.

Petitioner Statement:

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