

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/11/2018
File #	2018-04441

**IN RE: PETITION FOR VARIANCE BY
GARY ZINK**

VW 2018-046

ORDER GRANTING PETITION

Petitioner, Gary Zink, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on March 22, 2018. The Notice of the petition appeared in the Florida Administrative Register on March 30, 2018, in Volume 44 Number 63; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on May 4, 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 FAR portion of the CPA examination on March 8, 2016, and credit for that portion of the examination expired on September 8, 2017. Petitioner passed the REG portion of the CPA examination on March 7, 2017, and credit for that portion of the examination will expire on September 7, 2018. Petitioner passed the BEC portion of the examination on August 21, 2017, and credit for that portion of the examination expired on February 21, 2019. Petitioner passed the AUD portion of the

examination on March 19, 2018, and credit for that portion of the examination will expire on September 19, 2019.

4. During the 18-month window, Petitioner states that during 2017, the CPA examination format changed resulting in a prolonged release of score results. Petitioner had to wait 85 days to receive examination scores which are usually received within 30 days. Due to the delayed score release of the BEC and AUD portions of the examination, he was unable to use the delay time preparing for an examination. Once the delayed scores were released, the Petitioner had lost a testing window. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of six (6) months and eleven (11) days beyond the eighteen months provided in the rule to retain the passing scores on the FAR portion of the examination, when he passed the fourth portion of the examination on March 19, 2018.

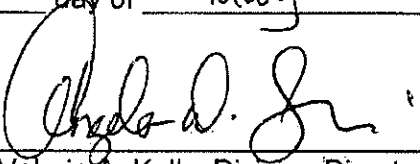
GROUND FOR APPROVAL

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 31st day of May, 2018,
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 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 Gary Zink, 101 NW 9th Terrace, Cape Coral, Florida 33993, 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 11th day of June, 2018.

Brandon M. Nichols

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Jonathan Zachem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Paul Waters, Deputy Secretary

FROM: Veloria A. Kelly, Director /s/ *Veloria A. Kelly*

SUBJECT: Delegation of Authority

DATE: May 23, 2018

I, Veloria Kelly, hereby delegate to Angela Francis, signature authority in my absence on May 24-31, 2018.

All documents signed on my behalf should have a copy of this Delegation of Authority attached.

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/22/2018
File #	

**PETITION FOR VAIRANCE FROM RULE 61H1-28.0052(1)(B)
18 MONTH RULE**

PERSONAL INFORMATION:

Gary Zink
101 NW 9th Terrace, Cape Coral FL, 33993
(239)292-4600

VW 2018-046

Attorney Information:

Not Applicable

RECEIVED
March 22, 2018

Applicable Portion of the rules:

61H1-28.0052(1)(b) Number of Sitzings, 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 479.306- 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 has been working in public accounting at a certified public accounting firm for almost six years. During 2017, the CPA Examination format changed resulting in a prolonged release of score results. The petitioner had to wait 85 days to receive scores which typically take 7 to 10 days. At the time, the petitioner had passed two of the four exams. Shortly before the delay, the petitioner completed the other two exams but had not yet received a score for either. Due to the unknown results of the the two exams, he was unable to use the delay time preparing for an exam. Once the delayed scores were finally released, the petitioner had lost a testing window. Therefore, the petitioner was not afforded the full 18 month period in which practitioner was entitled.

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:

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

RECEIVED

MAR 26 2018

DBPR Agency Clerk