

Fax:

May 18 2010

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	5/14/2010
File #	

**Petition for Variance from Rule 61H1-28.0052(2), Florida Administrative Code**

**Petitioner:** Patrick J Callan  
 8326 Benwood Cove Loop #905  
 Fort Myers, FL 33966  
 239-839-7860 (cell)

**RECEIVED**  
 MAY 14 2010  
 BOARD OF ACCOUNTANCY

**Rule:** 61H1-28.0052(2), Florida Administrative Code – "... However, in no event shall an initial license be issued if the initial licensure fees and all required documents are not received within 36-months of the date of certification of examination scores by the Board. . ."

**Laws Implemented:** 473.306 & 08, Florida Statutes **VW 2010-302**

**Variance Requested:** The Petitioner asks that the time frame delineated in above quoted Administrative Code be extended from 36 months to 60 months.

**Relevant Facts:** Petitioner has both completed a Master of Accounting degree and passed all four sections of Uniform CPA Exam within the last year. Yet, he has found it extremely difficult finding suitable employment working under a licensed CPA in Southwest Florida. Because of the current economic conditions facing many CPA-candidates, and the short term prospects these conditions represent, Petitioner is beginning full time studies towards a Juris Doctorate degree in August of this year.

**Variance & FL Law:** The action requested by Petitioner is totally consistent, based on his understanding, with the underlying laws governing licensure of Certified Public Accountants. All current educational, testing, and work experience requirements established by the Florida Legislature would appear to be conserved and conformed to if Board grants petition.

**Nature of Variance:** The proposed variance is intended as permanent by the Petitioner.

Respectfully,  
  
 Patrick J. Callan – Petitioner

5-12-10  
 Date

Petition for Declaratory Statement  
Before the Florida Board of Accountancy

Petitioner:

Patrick J. Callan  
8326 Bernwood Cove Loop #905  
Fort Myers, FL 33966  
239-839-7860 (cell)

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**APR 21 2010**  
**BOARD OF ACCOUNTANCY**

Florida Statute:

473.308 (4)(a) Licensure/Work Experience

Petitioner's Recent History:

- Received B.S. Accounting degree from Hodges University (Naples/Fort Myers) in April of 2008.
- Recognized as a CPA-candidate by the Florida Board of Accountancy in April of 2009.
- Received a Master of Accounting degree from Nova Southeastern University in September of 2009.
- Passed the four sections of the Uniform CPA Exam between July and November of 2009. Final passing grade was released in December of 2009.
- Received memorandum and original licensure application packet from Florida Board of Accountancy in January of 2010.

Petitioner has been unsuccessful in finding suitable employment working under a licensed CPA since graduating with his graduate degree. Because of the lack of positive employment prospects, petitioner has applied to and has been accepted at Ave Maria School of Law in Naples, Florida for the Class of 2013.

Petitioner asks the Board of Accountancy whether it can extend the 36 month deadline for original licensure application or allow academic training at an ABA-accredited school of law to replace the 1 year work experience requirement.

Respectfully,

  
Patrick J. Callan - Petitioner

4-16-10  
Date

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/15/2010
File #	2010-09763

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
PATRICK CALLEN**

**VW 2010-302**

**ORDER**

Petitioner, Patrick Callen, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(2), Florida Administrative Code (FAC), on May 14, 2010. The notice of the petition appeared in the Florida Administrative Weekly on June 4, 2010, in Volume 36 Number 22; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 27, 2010, 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**

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for licensure as a certified public accountant (CPA).
2. Petitioner passed the FAR section of the CPA examination on September 20, 2009; passed BEC on November 12, 2009; passed REG on November 10, 2009; and passed AUD on December 18, 2009.
3. Section 473.308(4), Florida Statutes (FS), provides that an applicant for licensure must show one year of work experience. Rule 61H1-27.0041, FAC, specifies the manner in which the one year of work experience must be documented.
4. Petitioner states that due to the current economic conditions, he has found it extremely difficult to find suitable employment working under a licensed CPA, for purposes

of meeting the one year work experience requirement.

5. Rule 61H1-28.0052(2), FAC, provides that "a candidate shall be deemed to have passed the CPA Examination when the candidate has been granted credit for all sections of the CPA Examination. Upon certification by the Board to the Department shall issue a license to practice public accounting to such individual. However, in no event shall an initial license be issued if the initial licensure fees and all required documents are not received within 36 months of the date of certification of examination scores by the Board; in such case, the certification expires and the applicant may reapply for licensure by endorsement, pursuant to Section 473.308(7)(a), Florida Statutes."

6. Petitioner seeks a permanent variance from Rule 61H1-28.0052(2), FAC, to extend the time period during which all documents required for licensure must be received from 36 months to 60 months following certification of his examination scores, to allow him additional time to document his one year of work experience. Petitioner proposes to use the additional time to pursue a law degree.

#### **GROUND FOR DENIAL**

The Board determined that the petition for variance should be denied on the following grounds:

7. Petitioner failed to establish that the purpose of the accountancy licensure statute would be met as required by Section 473.308, Florida Statutes.

8. Petitioner failed to establish that the Board's full application of Rule 61H1-28.0052(2), FAC, to his circumstances would violate principles of fairness and would impose a substantial hardship on him.

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

DONE AND ORDERED this 8<sup>th</sup> day of October, 2010,  
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 Patrick J. Callen, 8326 Bernwood Cove Loop #905, Ft. Myers, Florida 33966; and to F. Scott Boyd, Executive Director, Joint Administrative Procedures Committee, Room 120 Holland Building, Tallahassee, Florida 32399-1300, and Mary Ellen Clark, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 15<sup>th</sup> day of October, 2010.

*Branden M. Nichols*

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