

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
JORGE LOPEZ**

VW 2020-042

NOTICE OF INTENT TO GRANT PETITION

Petitioner, Jorge Lopez, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, March 17, 2020. The Notice of the petition appeared in the Florida Administrative Register on April 8, 2020, in Volume 46 Number 69. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Florida Board of Accountancy ("Board") on May 15, 2020, via teleconference and video conference. Petitioner was present and was not represented by counsel. The Board was represented by Rachelle Munson, Assistant Attorney General. The Petition is incorporated by reference herein and attached to this notice.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

- 1 **Rule 61H1-28.0052(1)(b), F.A.C.**, provides in pertinent 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.

- 2 Petitioner passed the BEC portion of the CPA examination on June 28, 2018, and credit for that portion of the examination expired on December 28, 2019. Petitioner passed the FAR portion of the examination on August 21, 2019, and credit for that portion of the examination will expire on February 21, 2021. Petitioner passed the AUD portion of the examination on November 4, 2019, and credit for that portion of the examination will expire on May 4, 2021. Petitioner passed the REG portion of the CPA examination on March 9, 2020, and credit for that portion of the examination will expire on September 9, 2021.

- 3 Petitioner attributes medical and family hardship, including mold displacement, as factors

affecting his rule compliance

4 Petitioner passed all four sections of examination, passing portions of the examination multiple times

5 Petitioner seeks a permanent variance from Rule 61H1-28 0052(1)(b), FAC, to allow an extension of two (2) months and ten (10) days beyond the eighteen months provided by the rule to pass all sections of the examination

GROUND FOR APPROVAL

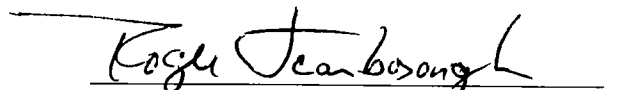
The Board determined the petition should be granted on the following grounds

6 Petitioner established that the Board's strict application of Rule 61H1-28 0052(1)(b), F A C , to his circumstances, would violate principles of fairness or would impose a substantial hardship on him

7 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, F S

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

DONE AND ORDERED this 9th day of JUNE, 2020, by the
Florida Board of Accountancy


Roger Scarborough, Division Director ✓

NOTICE OF RIGHT TO HEARING

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 **Jorge Lopez**, 4225 SW 91st Drive, Gainesville, FL 32608, and to Kenneth Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and by electronic delivery to Rachelle Munson, Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com this 15th day of June, 2020



FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/17/2020
File #	

Petitioner Information:

Jorge A. Lopez
4225 SW 91st Dr
Gainesville, FL 32608

Applicable Portion of the Rule(s):

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 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:

61H1-28.0052(1)(b)

Type of Action Requested.

Waive the rolling eighteen-month period required by Rule 61H1-28.0052(1)(b) for the BEC portion of the exam, which expired on 12/28/19. This would result in the completion of the CPA exam, as the other portions have recently been successfully completed.

Specific fact that demonstrates a violation of the principles of fairness that would justify a variance for the petitioner:

The principles of fairness is violated directly due to the disruption from a second mold remediation on our home and the continued navigation of our child's health complications demonstrated in this petition.

Less than three months after successfully passing the BEC portion of the exam (April 2018), mold was discovered for a second time in our home (July 2018). This required professional remediation that was completed early in January 2019. During this six-month period, the accessibility of the home was largely disrupted, due to affected areas, construction, and the displacement of furniture removing a location to competently study at home. This was additionally exacerbated with the continue health complications involving one of my children.

Three months after the second discovery of mold, my child was diagnosed with Gastroparesis (October 2018). This came after years of occupational therapy, endocrine and gastrointestinal counseling, clostridium difficile infection (C-DIFF), and other dietary complications in efforts of avoiding inserting a feeding tube, which would have undesirable compounding issues. The diagnosis was only the beginning of a remedy, as attention to the CPA exam had to be diverted to learning about the disease and how to better accommodate my child's needs which still is an ongoing process today, and included a tonsillectomy in April 2019.

Included with this petition is a timeline that lists testing dates (pass and fail) as well as hardships preventing adherence to statute 61H1-28.0052(1)(b). It is available, for review and to establish a history of these and other disruptions.

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

The BEC portion of the CPA exam has already been successfully completed twice, without an instance of failure. The exemption would retain the integrity of the exam while balancing the interest of fairness for the petitioner.

Petitioner Statement:

It is the intent to petition a waiver from rule 61H1-28.0052(1)(b).

VW 2020-042

**DIVISION OF CERTIFIED
PUBLIC ACCOUNTING**