

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
COREY CONNELL**

VW 2019-116

NOTICE OF INTENT TO DENY PETITION

Petitioner, Corey Connell, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on June 7, 2019. The Notice of the petition appeared in the Florida Administrative Register on June 14, 2019, in Volume 45 Number 116. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on July 12, 2019, in Orlando, Florida. Petitioner was not present for the proceeding. 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. **Section 120.542(5), F.S.**, provides in pertinent part:

A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule.

3. Petitioner passed the BEC portion of the CPA examination on September 18, 2017, and credit for that portion of the examination expired on March 18, 2019. Petitioner passed the AUD portion of the examination on March 7, 2018, and credit for that portion of the examination will expire on September 7, 2019. Petitioner passed the REG portion of the examination on September 10, 2018, and credit for that portion of the examination will expire on March 10, 2020. Petitioner passed

the FAR portion of the CPA examination on May 6, 2019, and credit for that portion of the examination will expire on November 6, 2020.

4. Petitioner states that he learned in August 2018 that his mother was diagnosed with a terminal illness and, in October 2018, he decided that it was in his best interest and the best interest of his family to suspend preparation and pursuit of his CPA license and take time off from work to care for and spend time with his mother and family. After the death of his mother in December 2018, Petitioner states in January 2019 he returned to work and resumed efforts to prepare for and complete the examination process for his CPA license. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), F.A.C.

5. Petitioner is one (1) month and eighteen (18) days outside the eighteen (18) month window for passing FAR.

6. At the time of filing the petition, Petitioner did not have an application for licensure on file with the Division of Certified Public Accounting.

GROUND FOR DENIAL

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


7. Petitioner, in the absence of an application on file and without further explanation for review by the Board, has not established himself as a person "subject to regulation" or having the requisite standing to seek remedy in this case.

8. Petitioner failed to establish that the Board's full 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.

9. Petitioner failed to establish that, if he was 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 8th day of August, 2019, by the
Florida Board of Accountancy.


Roger Scarborough, Division Director ✓
Florida Board of Accountancy

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: **Corey Connell**, 8358 Summer Avenue, Fort Myers, Florida 33908, 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 August, 2019.



FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/7/2019
File #	

PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b)
18 Month Rule

Petitioner Information:

Corey Connell
8358 Sumner Ave
Fort Myers, Florida 33908
(239)-822-9263

VW 2019-116

RECEIVED
JUN 07 2019

**DIVISION OF CERTIFIED
PUBLIC ACCOUNTING**

Attorney Information:

Not Applicable

Applicable Portions 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 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), FAC stated above due to the following circumstances.

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

The petitioner has been working a minimum of 30 hours per week at a CPA Exam Review Company since he graduated from university in December of 2016. He began taking his CPA examination in July of 2017, successfully passing BEC, receiving his score on September 18, 2017. The petitioner subsequently failed FAR in October of 2017. The petitioner sat for AUD in January of 2018 and received a passing score. The petitioner then sat for REG in July 2018 and received a passing score. The petitioner was set to and had scheduled a retake of FAR in October of 2018, however in August of 2018, he learned that his mother had been diagnosed with a terminal illness. Due to the unexpected announcement, in October of 2018, the petitioner decided it was in his and his family's best interest to take time off work and put his CPA license pursuit on hold to care for and spend time with his mother and family. The petitioner's mother died of the terminal illness in December of 2018. The petitioner returned to work and resumed the pursuit of his CPA license in January of 2019. His BEC score expired on March 18, 2019. The petitioner sat for FAR on April 18, 2019 and received a passing score on May 7, 2019.

In summary, the petitioner had 1 remaining examination to pass (FAR) before he learned of the terminal illness affecting his mother. The petitioner was on pace and prepared to sit for FAR prior to learning about the illness. As a result of his decision to care for his family, the petitioner was unable to use this time to study and sit for FAR within the 18-month window, and his BEC score expired on March 18, 2019. Despite putting his pursuit of his CPA license on hold for 3 months (October 2018 – December 2018), the candidate was able to successfully sit for the FAR examination exactly one month after his BEC score expired. The candidate then received notice that he passed FAR on May 7, 2019.

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

To the petitioner's knowledge, he requires 12 more credit hours of upper level accounting courses to meet the education requirements, which he plans to complete in the Spring 2020 semester, and is of good moral character.

Petitioner Statement:

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