

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
IVAN E. ROTGER**

VW 2021-176

NOTICE OF INTENT TO DENY PETITION

Petitioner, Ivan Rotger, filed a petition for a permanent variance from the requirements of **Rule 61H1-28.0052(1)(b), Florida Administrative Code (F.A.C.)**, on December 16, 2021. The Notice of the petition appeared in the Florida Administrative Register on December 22, 2021. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on January 28, 2022, in Orlando, Florida. Petitioner was present and was not represented by counsel for the proceeding. The Board was represented by Rachelle Munson, Assistant Attorney General. The Petition is incorporated by reference 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 AUD portion of the CPA examination on December 18, 2017, and credit for that portion of the examination expired on June 18, 2019. Petitioner passed the FAR portion of the examination on December 18, 2018, and credit for that portion of the examination expired on June 30, 2021. Petitioner passed the REG portion of the examination on April 8, 2021, and credit for that portion of the examination will expire on October 8, 2022. Petitioner passed the BEC portion of the CPA examination on November 8, 2021, and credit for that portion of the examination will expire on May 8, 2023.

3. Petitioner noted personal and family circumstances that attributed to his inability to prepare for and timely pass the CPA examination. Those reasons include the following:

- Demanding work schedules
- Childcare responsibilities beginning with his child's birth in 2020 and while his wife was experiencing a medical condition requiring surgery in 2021

4. Petitioner now requests that the Board permanently waive the 18-month period required by rule to allow more time to retake expired examinations.

5. At the time of submission, Petitioner is more than two (2) years and four (4) months outside the eighteen-month window for compliance with the rule for at least one section of the examination.

GROUND FOR DENIAL

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

6. Petitioner is more than two years beyond the eighteen-month window established by rule regarding passage of all sections of the CPA exam.

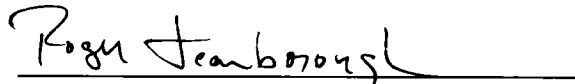
7. Petitioner failed to establish that the Board's application of Rule 61H1-28.0052(1)(b), F.A.C., to his circumstances would violate principles of fairness or would impose a substantial hardship on him.

8. 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 February, 2022, by the
Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY


Roger Scarborough, Division Director
Division of Certified Public Accounting

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: **Ivan E. Rotger**, 9986 NW 127th Street, Hialeah Gardens, FL 33018, 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; Cassandra Fullove at Cassandra.Fullove@myfloridalegal.com; and Tracy Smith at Tracy.Smith@myfloridalegal.com this 15th day of February, 2022.

Brandon M. Nichols

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	12/16/2021
File #	

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

Petitioner Information:

Name: Ivan E. Rotger
Address: 9986 NW 127th ST
Hialeah Gardens, FL 33018
Phone: 305 519 7791
Email: rot-ger@hotmail.com
Exam Application ID: 780814

RECEIVED

DEC 16 2021

Florida Division of
Certified Public Accounting

Attorney Information:

Not Applicable

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Applicable Portions of the Rules:

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 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.

Citation to The Statute the Rule is Implementing:

Section 473.306 – Florida Statutes

Type of Action Requested:

The petitioner request that the Board of Accountancy please waive rule 61H1-28.0052(1)(b), FAC stated above due to the following circumstances.

Specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner:

I began my professional career in 2009 when I obtained my bachelor degree in finance. After two years I decided to come back to school and completed my graduate certificate in foundation of accounting and auditing. Then I obtained my Master in Accounting.

Early 2013 I entered public accounting to work as an audit associate. I started at a local public accounting firm that had two different busy seasons. Our first hectic season started from mid-

January to the end of April to meet the calendar year deadline. One of the engagements that I participated for that calendar period required 5 straight years, located overseas which was a minimum of 4 weeks working abroad. Also, on the calendar year deadline I used to work nights and weekends during a traditional busy season. The second season started from mid- July until the end of September which required to work night and weekend as well during a typical busy season year.

I began to study for my CPA during 2017. I was able to pass the Audit exam in the fall of 2017. The following year I was able to pass FAR section on the fall of 2018.

Given to the excess number of hours required to study for the exam, and taking in consideration that working two busy seasons on the same year demands an excess amount hours, I considered my resignation at the end of 2019 in hopes for a better work/life balance. Unfortunately, the demands for hours on the new firm which I started at the beginning of 2020, were equally to my previous employers. Furthermore, at the end of 2019 my wife and I received the good news that were becoming parents for the first time. Our child arrived on June 25, 2020. It was also the beginning of the pandemic which was a lot tension nationwide. I was expecting to dedicate my time to the exams, but it was difficult with a new job and new born baby.

During 2021 I was able to take REG at the beginning of the year and be able to pass. It was expecting to retake BEC at the end of the second quarter. During that period my wife has rheumatoid arthritis and needed hand surgery, she had ulnar deviation in her right hand. Her surgery was in May, 2021, she had soft tissue transfer and realignment. Due to her RA, she also needed a hammer toe surgery, that she got 15 days after her hand surgery. The surgery represented a challenge during my process to prepare for the exam. Additionally, taking care of my baby which required significant amount of hours and efforts.

During the last quarter of the year in October, I sat for BEC and was able to pass taking in consideration those challenges presented.

Currently I obtained the NTS to take AUD at the end of December or beginning January.

Below you would find my passing score and expiration of my fours exams:

AUD: I took AUD on the FALL of 2017, passed with 77, and expired 6/30/2019

FAR: I took FAR on the FALL of 2018, passed with 77, and expired 6/30/2021

REG: I took REG on the Spring of 2021, passed with 77, and expires 10/8/2022

BEC: I took BEC on the FALL of 2021, passed with 82, and expires 5/8/2023

Reason why the variance or the waiver requested would serve the purposes of the underlying statute:

I consider that I have meet the educational requirement by passing all sections of the CPA exam.

Petitioner Statement:

To obtain a permanent variance from Rule 61H1-28.0052(1)(b), FAC and request the 18-month window to be extended.