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CLERK OF THE SUPREME COURT
STATE OF WASHINGTON

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**IN THE COURT OF APPEAL OF THE STATE OF WASHINGTON
SEATTLE - Division 1.**
(One Union Square, 600 University Street, Seattle WA 98101-4170)

<p>David Muresan</p> <p style="text-align: right;">Appellant</p> <p>Vs.</p> <p>DSHS-RCS</p> <p style="text-align: right;">Respondent</p>		<p>Case. # <u>69303-4-1</u></p> <p>SC Case. # <u>12-2-00409-3</u></p> <p><u>Petition For Review in this court</u></p>
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I, David Muresan, appellant in this case, ask the court to accept my **Petition For Review** in this court, as indicated by court letter dated Jan 15 2014..

Reason for review:

1) DSHS-RCS intentionally enacted the rule **WAC 388-76-64015** saying "Nurse Delegation is mandatory in AFH for some residents" The statutory authority written on the above rule is **RCW 69.41.085** saying "AFH (*Adult family Homes) may receive Medication Assistance/Nurse Delegation"

2) The law maker Roger Woodside of Nurse delegation told me that the statutory authority for rule **WAC 388-76-64015** is the rule **RCW 70.128.130(6)**, saying " AFH shall establish health care procedure for residents. Nothing about Nurse Delegation.

3) The DSHS-RCS **director's letter** dated March 15. 2003 says that in AFH: **"Nurse delegation is not mandatory. However, if you provide any type of nursing service in your home, consult with your registered nurse as to whether nurse delegation would be appropriate."**) This letter say what the statutory authority say.

1 4) My subjective opinion about what have happened at RCS is: Enforcement
2 Officer Janice Shurman wanted nurse delegation to be mandatory in AFH . She
3 requested the legislation approval but, as the representative Ruth Keyg told me, that
4 request was denied. RCS enacted anyway the above rule. When the rule was
5 published the director did not have any other choice just to write a letter to each AFH to
6 present the legislation point of view as "Nurse Delegation is not mandatory in AFH"

7 5) The Nurse delegation requirement say that if a resident cannot self-
8 administer the medication (to take the pills by her/his self) then a nurse shall
9 approve a caregiver/CAN to give that pill to resident). This approval can cost more
10 than \$100/ mo.

11 6) None of my resident needed Nurse Delegation. I was accused just stating
12 that director letter say clear that Nurse Delegation is not mandatory in AFH. I
13 requested RCS to retract the director letter to be able legally to ask resident to
14 pay for Nurse Delegation. They never did and RCS continue to accuse me that I
15 consider Nurse delegation as not mandatory and not the director wrote that. In all
16 hearing transcripts only once a licenser accepted that Nurse Delegation is not
17 mandatory as the director letter say.

18 7) DSHS-RCS used my point about Nurse Delegation in the citations to
19 revoke two of my Adult family Home licenses, with severe damaging
20 consequences.

21 8) In 2009 I applied again for Adult Family License but was denied. I ask this
22 court to reverse the RCS denial and to give me an AFH license.

23 9) I ask this court also to request RCS to clear their rules of any violations
24 of statutory authority.

25 Date Jan 24-2014



David Muresan

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**IN THE COURT OF APPEAL OF THE STATE OF WASHINGTON
SEATTLE - Division 1.**

(One Union Square, 600 University Street, Seattle WA 98101-4170)

		Case. # 69303-4-1
		SC Case. # <u>12-2-00409-3</u>
David Muresan		
Appellant		
Vs.		
DSHS-RCS		<u>Declaration of Service</u>
Respondent		

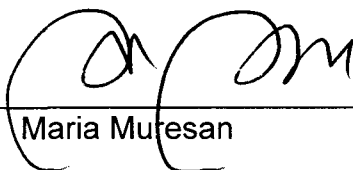
The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the date of **Jan - 24th - 2014**, I served by: Certified mail, Electronic mail, Facsimile Transmission, **First Class Mail**, Hand Delivery, Overnight Delivery, in the manner indicated above by "x" true and correct copies of the following documents:

1. Petition For Review in this court

2. Declaration of Service

To: 1. Attorney General of Washington Greenwich Building, 3501 Colby Avenue # 200 Everett, WA 98201 or Faxed To: # **425-257-2197** for **Joanna Giles**.

Date Jan 24-2014



Maria Muresan

Attach 2 pages

David Muresan, 1578 S Crestview Dr.
Camano Island, Washington, 98282, Ph. 360-387-4669
Email davidmuresan@live.com

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DAVID MURESAN,)	
)	No. 69303-4-I
Appellant,)	
)	DIVISION ONE
v.)	
)	UNPUBLISHED OPINION
STATE OF WASHINGTON,)	
DEPARTMENT OF SOCIAL AND)	
HEALTH SERVICES,)	
)	
Respondent.)	FILED: December 23, 2013

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PER CURIAM. David Muresan appeals a decision affirming a final agency order denying his application for a license to operate an adult family home. We affirm.

The history of this matter, as well as the flaw in Muresan's legal arguments, are succinctly summarized in the superior court's "Order on Petition for Judicial Review":

On September 9, 2009, the Department wrote the Appellant a letter informing him that his application for an [Adult Family Home (AFH)] license had been denied. . . .

. . . In the denial letter, the Department stated that the denial was based on WAC 388-76-10120, subsections (3)(a) and (3)(f), which describe circumstances in which the Department must deny an applicant's AFH license application. In support of its decision the Department cited three previous AFH license revocations and an Adult Protective Services (APS) finding of neglect of a vulnerable adult involving the Appellant.

. . . .

. . . On April 19, 2012, Review Judge Marjorie R. Gray issued a Review Decision and Final Order affirming the Initial Order. On May 9, 2012 . . . the Review Decision and Final Order dated April 19, 2012, became the final administrative order.

. . . .

. . . The Department is required by regulation to deny an application for a license to operate an AFH when an applicant has a history of significant noncompliance. Such a history of significant noncompliance is defined as including the revocation or suspension of a license for the care of vulnerable adults.

. . . The Appellant has been found to have neglected a vulnerable adult, and is listed on the APS Abuse Registry. He has had previous licenses for adult family homes revoked. He has had subsequent license applications denied. The Appellant is collaterally estopped from relitigating the previous revocations and license denials, as well as his findings of neglect. The Department's action denying his new application for an adult family home license should be affirmed as a matter of law.

. . . .

. . . The Review Decision and Order dated April 19, 2012, is affirmed

On appeal from the superior court's decision, we review the underlying agency decision and sit in the same position as the superior court. Tapper v. Employment Security Department, 122 Wn.2d 397, 402, 858 P.2d 494 (1993). We may grant relief only if Muresan demonstrates that the agency's decision is based on an erroneous interpretation of the law, not supported by substantial evidence, or arbitrary or capricious. RCW 34.05.570(3). Muresan has not established any of these bases for relief.

Instead, his sole assignment of error is an impermissible collateral attack on previous decisions that are now final and beyond the scope of review. As the superior court noted, those final decisions now constitute "a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to . . . vulnerable adults" that disqualify him from operating an adult

No. 69303-4-1 / 3

family home as a matter of law. WAC 388-76-10120(3)(a)(f). Muresan fails to demonstrate any basis for relief from the final administrative order.

Affirmed.

FOR THE COURT:

Cox, J.

Stone

Jan, J.
