



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

November 2, 2017

Rick Hester  
County Manager  
Courthouse - B-206  
207 E. Johnston Street  
Smithfield, NC 27577  
Via Hand Delivery

**Notice of Warning**

**Re: Violation of Title 02 N. C. Administrative Code ("NCAC") Chapter 52J, Section .0209(5).**

**AWS-WL-2017-24**

Animal Shelter: Johnston County Animal Services Shelter  
Registration No. 28

Dear County Manager Hester:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") received a complaint concerning the care of animals at the Johnston County Animal Services Shelter ("the shelter"). Based on the information within this complaint, AWS opened an investigation. The investigation included a site visit by AWS Animal Health Technician Elizabeth Garner ("Inspector Garner"), interviews with shelter management and staff, observation of the animals housed at the shelter and a review of shelter records.

The complaint referenced 2 cats visibly suffering from a contagious disease housed in the room with the general population of healthy cats. At the time of the site visit on October 13, 2017, the shelter staff acknowledged that 2 sick cats, that were on medication for a contagious disease, had been housed in the same room as the general population. Title 02 N.C. Administrative Code ("NCAC") Chapter 52J, Section .0209(5) requires that dogs or cats being treated for a communicable disease to be separated from other dogs or cats.

Based on the results of this investigation, the shelter appears to have violated 02 NCAC 52J .0209(5).

This Warning Letter serves as written notice indicating in which respects the shelter may have violated the N.C. Animal Welfare Act ("AWA") and the rules issued pursuant thereto.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or

violation may result in action against your facility's license pursuant to N.C. General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute §19A-40.

During a conversation with Inspector Garner on October 25, 2017, shelter management relayed to her a corrective action plan to address the violation noted above. Proper implementation of this plan should bring the shelter into compliance with the AWA and its associated rules regarding this matter.

Your immediate response to this matter is noted and appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Norris', with a long horizontal flourish extending to the right.

Patricia Norris, DVM, MS  
Director of Animal Welfare Section  
Veterinary Division

cc: Dr. R. Douglas Meckes, State Veterinarian  
Joe Reardon, Assistant Commissioner, NCDA&CS  
Tina Hlabse, General Counsel, NCDA&CS  
Christopher R. McLennan, Assistant Attorney General

## Appendix

### REFERENCED STATUTES AND REGULATIONS

#### **§ 19A-30. Refusal, suspension or revocation of certificate or license.**

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

#### **§ 19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

**02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION**

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (5) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable disease.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. January 1, 2005.*