

7. Neither Lincoln County Animal Services nor Respondent notified the Complainant to request the transfer of Respondent's certification as a euthanasia technician.
8. From Respondent's first day of employment at Lincoln County Animal Shelter until December 17, 2010, Respondent euthanized approximately 35 animals.
9. Respondent's work as a euthanasia technician at Lincoln County Animal Shelter was discovered by the Complainant's inspector, Gary Stamey, on December 17, 2010 during an inspection following a complaint.
10. As a result of this investigation, the Complainant found that the Respondent, either by act or omission, violated the following provision of the N.C. General Statutes and regulations promulgated there under and assessed a civil penalty against Respondent in the amount of one thousand dollars:

§ 19A-24. Powers of Board of Agriculture.

(a) The Board of Agriculture shall:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.
- (2) Prescribe the manner in which animals may be transported to and from registered or licensed premises.
- (3) Require licensees and holders of certificates to keep records of the purchase and sale of animals and to identify animals at their establishments.
- (4) Adopt rules to implement this Article, including federal regulations promulgated under Title 7, Chapter 54, of the United States Code.
- (5) Adopt rules on the euthanasia of animals in the possession or custody of any person required to obtain a certificate of registration under this Article. An animal shall only be put to death by a method and delivery of method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. The Department shall establish rules for the euthanasia process using any one or combination of methods and standards prescribed by the three aforementioned organizations. The rules shall address the equipment, the process, and the separation of animals, in addition to the animals' age and condition. If the gas method of euthanasia is approved, rules shall require
 - (i) that only commercially compressed carbon monoxide gas is approved for use, and
 - (ii) that the gas must be delivered in a commercially manufactured chamber that allows for the individual separation of animals. Rules shall also mandate training for any person who participates in the euthanasia process.

(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture may adopt rules on the euthanasia of animals for:

- (1) Written and practical examinations for persons who perform euthanasia.
- (2) Issuance of certification to persons who have successfully completed both training and examinations to become a euthanasia technician.
- (3) Recertification of euthanasia technicians on a periodic basis.
- (4) Standards and procedures for the approval of persons who conduct training of euthanasia technicians.
- (5) Approval of materials for use in euthanasia technician training.
- (6) Minimum certification criteria for persons seeking to become euthanasia technicians including, but not limited to: age; previous related experience; criminal record; and other qualifications that are related to an applicant's fitness to perform euthanasia.
- (7) Denial, suspension, or revocation of certification of euthanasia technicians who either violate any provision of the Animal Welfare Act pursuant to Article 3 of Chapter 19A of the General Statutes or otherwise become ineligible for certification.

(8) Provision of the names of persons who perform euthanasia at animal shelters and for the animal shelter to notify the Department when those persons are no longer affiliated, employed, or serving as a volunteer with the shelter.

(9) Certified euthanasia technicians to notify the Department when they are no longer employed by or are serving as a volunteer at an animal shelter.

(10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians.

(1977, 2nd Sess., c. 1217, s. 5; 1987, c. 827, s. 62; 2004-199, s. 12; 2005-276, s. 11.5(b); 2005-345, s. 22; 2008-198, s. 2(a).)

02 NCAC 52J .0402 AUTHORIZED PERSONS

Only a Certified Euthanasia Technician, Probationary Euthanasia Technician, or a veterinarian licensed to practice veterinary medicine in North Carolina may euthanize an animal in a certified animal shelter. A Certified Euthanasia Technician shall not euthanize animals using a method for which he or she is not currently certified except as specified in 02 NCAC 52J .0700.

History Note: Authority G.S. 19A-24;
Eff. March 23, 2009.

02 NCAC 52J .0414 TERMINATION OF EMPLOYMENT

Upon termination of employment or volunteer status from a certified facility, a Certified Euthanasia Technician shall not perform animal euthanasia in a certified facility until recertified by the Animal Welfare Section. The Certified Euthanasia Technician's certification shall be canceled effectively upon termination of employment or volunteer status. No later than 10 days from the date of the termination of a Certified Euthanasia Technician's employment or volunteer status at that certified facility the Certified Euthanasia Technician shall complete a form notifying the Animal Welfare Section of the termination of employment or volunteer status and shall return the form and the Certificate to the Animal Welfare Section.

History Note: Authority G.S. 19A-24;
Eff. March 23, 2009.

11. WHEREAS the parties desire to resolve this matter without further litigation.

NOW THEREFORE, the parties agree as follows:

12. Complainant agrees that, upon receiving the signed original of this Agreement from the Respondent and Respondent's check, payable to the North Carolina Department of Agriculture and Consumer Services, in the amount of five hundred dollars (\$500.00), it will issue the Respondent a certification to serve as a euthanasia technician at Lincoln County Animal Shelter, subject to the requirements and limitations set forth as follows:

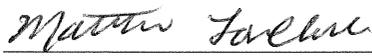
a) With Respondent's full and complete consent, said certification is hereby suspended for a period of ninety days, beginning with the day upon which Respondent signs the original of this Agreement, during which Respondent may not lawfully exercise the privileges of a Certified Euthanasia Technician in the State of North Carolina;

b) Respondent shall comply with the North Carolina Animal Welfare Act and all regulations promulgated thereunder.

13. In the event that Complainant receives evidence that the Respondent has committed a new violation of the North Carolina Animal Welfare Act and/or the regulations promulgated there under during the term of suspension set forth above, Respondent shall be deemed to be in material breach of this Agreement. For purposes of this agreement, a new violation is understood to mean a violation of G.S. Article 19A and the regulations promulgated there under that has detrimentally affected the health and/or welfare of the animals held in the facility where the Respondent is employed and cannot, in the sole discretion of the Complainant, be easily remedied by the Respondent in the course of daily operations of the facility. The Complainant reserves the right to forego declaring the Respondent to be in breach of this agreement upon receiving evidence of any violation of G.S 19A or breach of this agreement, as a matter within its sole discretion. The parties further understand and agree that Complainant's decision not to declare the Respondent to be in breach of this agreement does not amount to a waiver of that right.
14. Respondent agrees that if Respondent fails to pay the total agreed upon sum of five hundred dollars (\$500.00) upon his acceptance of this agreement, said failure shall constitute a material breach of this Agreement and Complainant shall be entitled to receive the entire penalty of one thousand (\$1,000.00) dollars for violations of the above-stated North Carolina Animal Welfare Act and its Regulations;
15. The Respondent hereby acknowledges his right to submit a petition for a formal hearing to the North Carolina Office of Administrative Hearings to resolve this matter and waives said right by consenting to the terms of this Agreement. The parties further agree that Respondent's waiver applies fully to the Suspension set forth in this Agreement and to the Notice of Civil Penalty Complainant issued on January 4, 2011 and to any decision Complainant's Director of Animal Welfare makes subsequent to the execution of this Agreement as provided under paragraph 13, above.
16. The persons signing this Agreement represent that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.
17. The parties agree to act in good faith in the implementation of this agreement.
18. The parties agree to bear their own attorneys fees and costs.

19. It is understood between the parties that this Agreement contains the entire agreement between the parties hereto regarding the matters set forth, and it supersedes all previous negotiations, discussions and understandings regarding such matters. Terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.
20. The effective date of this Agreement will be the date on which it has been executed by the Respondent as shown on the signature lines below. However, the Complainant expressly retains the right to cancel this Agreement if, from the time this document is provided to Respondent, to the time this signed original Agreement is returned to the Complainant, Complainant finds evidence of new violations of the North Carolina Animal Welfare Act have been committed by the Respondent, its employees, agents, volunteers or independent contractors.
21. North Carolina law shall govern the interpretation and enforcement of this Agreement.

IN TESTIMONY WHEREOF, the parties have set their hands and seals on the dates indicated below:



Matthew Lovelace
RESPONDENT

Date: 4-1-11



Barry H. Bloch
Assistant Attorney General
N.C. Department of Justice
ATTORNEY FOR COMPLAINANT

Date: 4/19/2011



Lee Hunter, DVM, MPH
Director, Animal Welfare Section
North Carolina Department of Agriculture & Consumers Services
FOR COMPLAINANT

Date: 4/19/2011