



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

March 11, 2015

Mr. Henley Brock
2185 Everett Road
Robersonville, NC 27871

UPS Tracking Number

Re: REVOCATION OF EUTHANASIA TECHNICIAN CERTIFICATION
Henley Brock
Euthanasia Technician Certification no. CET2012-0307HPB

Dear Mr. Brock:

This letter encloses an Order of Revocation issued pursuant to N.C. Gen. Stat. § 19A-24 and 02 NCAC 52J .0419 concerning your certification as a euthanasia technician employed by Martin County Animal Shelter by the Director, Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture & Consumer Services ("AWS").

Investigation of your practices and conduct as a euthanasia technician at said animal shelter indicates that grounds exist for revocation of your certification based upon violation(s) of the requirements set forth under the NC Animal Welfare Act and the rules for euthanasia technicians promulgated under that law.

The Order describes in detail the factual basis for your certification revocation. You have failed to carry out the duties of a Certified Euthanasia Technician, demonstrated by the acts and/or omissions described therein.

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-23, within five (5) days of your receipt of this Order. Please find enclosed information on filing said petition.

Therefore, you are notified to CEASE AND DESIST from performing those duties and tasks involved in euthanizing animals in a registered animal shelter. If the Animal Welfare Section finds evidence indicating that you performed any such duties or tasks following your receipt of this letter, the NCDA&CS has the authority to impose a civil penalty of up to five thousand dollars (\$5,000.00) pursuant to:

§ 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.

Your suspension is effective immediately upon receipt of this letter. If you have any questions concerning the basis for this order you may call me at the telephone number listed above.

Sincerely,



Dr. Patricia Norris, DVM,
Director, Animal Welfare Section
Veterinary Division, NCDA&CS

Enclosures: 1) Certification Revocation Order;
2) Appeal Information

cc: Joseph Reardon, Assistant Commissioner, NCDA&CS
Dr. Douglas Meckes, DVM, State Veterinarian, NCDA&CS
Barry Bloch, Assistant Attorney General, NCDOJ

APPEAL INFORMATION

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings.

File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF

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ORDER OF REVOCATION

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HENLEY BROCK,

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For Violations Of:

Respondent.

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2 N.C. Administrative Code 52J

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.0401, .0418 and .0419

Acting pursuant to N.C. Gen. Stat. §§ 19A-24 and -40, Dr. Patricia Norris, Director of the Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter the Respondent, Mr. Henley Brock, is certified as an euthanasia technician pursuant to N.C. Gen. Stat. § 19A-24, employed by Martin County Animal Shelter ("MCAS"), 1411 Landfill Road, Williamston, NC 27892.
2. On February 12, 2015, NCDA&CS Animal Welfare Inspector Lisa Carlson ("Insp. Carlson") conducted a euthanasia inspection at MCAS.
3. During the inspection Insp. Carlson found a cat inside a trap that appeared to be in distress.
4. Martin County Animal Control Officer Kevin Beck ("ACO Beck") asked Insp. Carlson if she could euthanize the cat in the trap.
5. Insp. Carlson replied that she could not euthanize the cat.
6. ACO Beck told Insp. Carlson that his supervisor, the Respondent, had told ACO Beck that he had euthanized the cat in the trap and directed ACO Beck to check on the cat. If the cat was still alive, Respondent directed ACO Beck to finish euthanizing it.
7. ACO Beck stated that, after Respondent gave him these directions, Respondent had left the shelter facility for the day.
8. ACO Beck showed Insp. Carlson a six CC syringe filled with three CCs of a pink solution sitting on a wood shelf.
9. ACO Beck told Insp. Carlson that Respondent had drawn the contents of the syringe from a bottle of Euthasol that Respondent keeps in the side pocket of his county-issued truck.
10. ACO Beck is not certified as a euthanasia technician by NCDA&CS Animal Welfare Section.
11. Insp. Carlson directed ACO Beck to take the cat in the trap to the Williamston Vet Clinic ("Clinic") to complete the euthanasia and to have the Clinic call her.

12. The Clinic's veterinary technician, Ms. Cheryl Barnes, called Insp. Carlson and informed her:
 - a. Dr. Rhames examined the cat in the trap and concluded that it had been injected with a substance that had not been effective in causing a humane death;
 - b. Dr. Rhames had euthanized the cat;
 - c. This was not the first time that "something like this has occurred."
 - d. A week ago ACO Beck came to the Clinic carrying a "teen-aged" kitten that was barely alive, had a very low body temperature, was cold to the touch and had icicles on its whiskers, ear tips and fur.
 - e. ACO Beck told Ms. Barnes that he had opened the MCAS freezer where the cat carcasses from the previous day's euthanasia activity were placed and had found this kitten inside, alive.
 - f. Ms. Barnes took the kitten and she and her colleagues saved it.
13. Insp. Carlson's review of MCAS' euthanasia records revealed:
 - a. Respondent failed to record euthanasia dates on some of the records.
 - b. There was impound paperwork for nine cats.
 - c. There were eight cat carcasses in the MCAS freezer and one cat in the trap that went to the Clinic.
 - d. The Fatal Plus drug log showed that only six cats were euthanized.
 - e. There was no drug log found for Euthasol, the drug seen in the 6cc syringe described above.
14. ACO Beck stated that he has Respondent euthanize "numerous" animals but has never seen Respondent pre-sedate an animal.
15. ACO Beck stated that Respondent Brock injects the euthanasia solution in multiple different locations on the cat through the wires of the trap in which it is held for euthanasia.
16. Insp. Carlson found an empty, used 3cc syringe in plain view on Respondent's desk.
17. Insp. Carlson found injectable Ketamine products and Fatal Plus in an unlocked desk drawer next to an unlocked drug box.
18. Insp. Carlson found no drug book for the Ketamine.
19. Insp. Carlson found no euthanasia manual with the current AVMA and HSUS guidelines.
20. Insp. Carlson found no stethoscope on the premises to use to confirm death.

21. Insp. Carlson found incomplete documentation of cats in traps.
22. Insp. Carlson found that Respondent's practice is to use one impound form for each address where he sets a trap for feral cats upon trapping the first cat.
23. Respondent then records each subsequent trapped cat from the same address on the form by placing a check mark in the corner.
24. Respondent makes no other record to identify the cats being trapped.
25. Thus the cats are being euthanized as they come in and not noted anywhere in the records until trapping is completed at the address.
26. On February 13, 2015, Insp. Carlson met with County Manager David Bone and Chief Deputy Tim Manning and informed them of her findings.
27. After the meeting, Mr. Bone placed Respondent on administrative leave pending further investigation and directed Mr. Manning to seize Respondent's county vehicle.
28. When the vehicle was seized they found a bottle of Euthasol unsecured.
29. Martin County Sheriff's Office has placed that bottle and the controlled drugs Insp. Carlson found unsecured at the shelter into their custody.
30. On February 17, 2015, Dr. Patricia Norris, Director of the Animal Welfare Section for the Department of Agriculture and Consumer Services spoke with Cheryl Barnes who is employed as a Veterinary Technician at the Clinic. Cheryl Barnes relayed:
 - a. During the previous week, ACO Beck brought into the clinic an intact female tabby kitten that was hypothermic, wobbly, showing signs of neurologic compromise, thin, hungry and had frostbite damage to the ear tips.
 - b. The kitten responded well to food, water and warmth.
 - c. Once the kitten warmed up, the neurological issues resolved but the cold damage to the ear tips was permanent.
 - d. The kitten tested negative for Feline Leukemia.
 - e. Another cat was brought to the clinic by ACO Beck on February 12, 2015 which appeared to be heavily sedated.
 - f. This cat was euthanized by the veterinarian.
31. On February 27, 2015, Dr. Norris learned the following information from ACO Beck:
 - a. Respondent was authorized to euthanize a dog that had been at the shelter for approximately 20 days.
 - b. Respondent euthanized this dog on December 3, 2014 while it was confined to a run at the Martin County Animal Shelter.

- c. Respondent euthanized this dog with the county's tranquilizing rifle by shooting the dog with euthanasia solution-filled darts.
- d. The darts were shot into the dog's body behind the shoulder.
- e. More than one dart was shot into the body of the dog.
- f. Once the dog went down, Respondent entered the run to complete the euthanasia by injecting more euthanasia solution.
- g. ACO Beck witnessed the entire incident.

II. Applicable Law

Based on the results of our investigation, there is reason to believe that your acts and/or omissions violated the following rules promulgated under the North Carolina Animal Welfare Act:

02 NCAC 52J .0401 ADOPTION BY REFERENCE

A person required to obtain a certificate of registration pursuant to G.S. 19A, Article 3 may use any method of euthanasia approved by the American Veterinary Medical Association (AVMA), the Humane Society of the United States (HSUS), or the American Humane Association (AHA) which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these documents may be obtained as follows:

- (1) AVMA Guidelines on Euthanasia may be accessed at no cost on their website at www.avma.org.
- (2) The HSUS Euthanasia Training Manual can be purchased through their website at www.hsus.org at a cost of nineteen dollars and ninety-five cents (\$19.95).
- (3) The AHA publication, Euthanasia by Injection, can be purchased through their website at www.americanhumane.org at a cost of ten dollars (\$10.00).

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

The 2013 AVMA Guidelines on Euthanasia and the 2013 HSUS Euthanasia Training Manual expressly provides that, when an animal is euthanized, the process should be done correctly and humanely. In addition, death is to be verified by one or a combination of the following methods: lack of pulse, breathing, corneal reflex, respiratory sounds via stethoscope, heartbeat via stethoscope; negative response to firm toe pinch; graying of mucous membranes; heart stick (in some cases); and rigor mortis. [2013 AVMA Euthanasia Guidelines page 16 et.al; 2013 HSUS Euthanasia Training Manual, page 41 et.al.]

02 NCAC 52J .0418 DUTIES

A Certified Euthanasia Technician may:

- (1) Prepare animals for euthanasia;
- (2) Record the identification number of the animal, its species, sex, breed description and date, dosages for drugs that are administered and amounts for drugs wasted;...

- (4) Maintain the security of all controlled substances and other drugs in accordance with applicable state and federal laws and regulations;...
- (7) Euthanize animals;
- (8) Dispose of euthanized animals and expired or unwanted chemical agent(s) or the containers, instruments and equipment used in the administration of drugs in accordance with all applicable federal, state and local laws and regulations; and

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

02 NCAC 52J .0419 Grounds for Discipline – Certified Euthanasia Technicians

The Department may refuse to issue, renew, or reinstate the certification of a Euthanasia Technician, or may deny, revoke, suspend, sanction, or place on probation, impose other forms of discipline, and enter into consent agreements and negotiated settlements with Certified Euthanasia Technician pursuant to the procedures set forth in G.S. 150B, Article 3, for any of the following reasons:

- (1) Failure to Carry Out Duties. Failure to carry out the duties of a Certified Euthanasia Technician;...
- (2) Abuse of Chemical Substances. Abuse of any drug or chemical substance by:
 - (c) Misusing chemical substances;...
- (7) Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public. Such conduct includes working in conjunction with any agency or person illegally practicing as a Certified Euthanasia Technician; failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; euthanizing animals in a manner that endangers the health or welfare of the public; **gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by the practices generally and currently followed and accepted as approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association**; intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and swearing falsely in any testimony or affidavits relating to practicing as a Certified Euthanasia Technician;...
- (9) Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in the rules in this Subchapter;
- (10) Improper Security and Storage for Chemical Agents. Failure to provide and maintain proper security and storage for euthanasia and restraint drugs as established under applicable United States Drug Enforcement Administration and North Carolina Department of Health and Human Services statutes and rules;
- (11) Improper Disposal of Chemical Agents and Equipment. Failure to dispose of drugs and the containers, instruments and equipment in a manner permitted by this Subchapter;
- (12) Improper Labeling of Approved Chemical Agents. Failure to properly label approved euthanasia and restraint chemical agents;

Each of the above violations of the North Carolina Animal Welfare Act is subject to a civil penalty or may serve as grounds for disciplinary action against your license, as follows:

N.C. Gen. Stat. § 19A-24. ...

(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:

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

III. DECISION

Respondent's certification as a euthanasia technician is revoked effective the date this Order is served upon him.

Date: 3/11/2015



Dr. Patricia Norris, DVM,
Director, Animal Welfare Section
Veterinary Division, NCDA&CS