



Steven W. Troxler  
Commissioner

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

David T. Marshall, DVM  
State Veterinarian

December 23, 2011

Mr. Frank Ringelberg  
Moore County Animal Control  
P.O. Box 279  
Carthage, North Carolina 28327

CERTIFIED MAIL RETURN  
RECEIPT REQUESTED

7006 2760 0003 0472 2440

NOTICE OF SUSPENSION OF EUTHANASIA TECHNICIAN PRIVILEGES AND CIVIL PENALTY

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF ANIMAL WELFARE ACT, N.C.  
GENERAL STATUTE § 19A-24(b)(7)a. AND TITLE 2, N.C. ADMINISTRATIVE CODE, CHAPTER  
52J, SECTION .0701

Dear Mr. Ringelberg:

Pursuant to N.C. Gen. Stat. §§ 19A-24 and -40 I am issuing this notice to you that a civil penalty has been assessed against you by the North Carolina Department of Agriculture and Consumer Services, Veterinary Division (NCDA&CS) and that your euthanasia technician privileges have been suspended. The order of suspension and civil penalty assessment is attached.

Within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the Office of Administrative Hearings (OAH) to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, present your offer to Dr. Lee Hunter, Director, Animal Welfare Section, who may be contacted by telephone at (919) 733-7601. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

## PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services  
Dr. David T. Marshall  
State Veterinarian  
1030 Mail Service Center  
Raleigh, NC 27699-1030

## APPEAL

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:

Mr. Ray Starling  
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.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Hunter', with a long horizontal stroke extending to the right.

Lee Hunter, DVM, MPH  
Director, Animal Welfare Section

DTM/cs

Attachment: Assessment Document

cc: Mr. Barry Bloch, Assistant Attorney General  
Mr. Ray Starling, Legal Affairs  
David T. Marshall, DVM, State Veterinarian

STATE OF NORTH CAROLINA  
COUNTY OF GASTON

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER SERVICES,  
VETERINARY DIVISION

IN THE MATTER OF  
MR. FRANK RINGELBERG

) NOTICE OF VIOLATIONS AND  
) ASSESSMENT OF CIVIL  
) PENALTY AND SUSPENSION  
) OF EUTHANASIA TECHNICIAN  
) PRIVILEGES  
)  
) For Violations Of:  
) Animal Welfare Act  
) N.C. General Statute § 19A-24  
) 2 N.C. Administrative Code 52J  
) .0701

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

FINDINGS OF FACT

1. At all times pertinent to this matter Frank Ringelberg was a certified euthanasia technician employed by the Moore County, N.C., Health Department.
2. On August 16, 2011, Mr. Ringelberg responded to a call that two stray dogs were confined inside a tennis court at Mid South golf course in Pinehurst, N.C.
3. Mr. Ringelberg reported that, upon arriving at the tennis courts, he attempted to catch the dogs with a leash, dog treats and a catch pole, without success.
4. Mr. Ringelberg reported that, instead of leaving the tennis court to retrieve a tranquilizer from the animal shelter to use to catch the dogs, he chose instead to put the dogs down by shooting each with a .22 caliber rifle.
5. Mr. Ringelberg stated that, had he left the tennis court, he believes that someone would have freed the dogs in his absence, and, because he was working alone, he had no one to call to bring him a tranquilizer or otherwise assist him in catching the dogs.
6. Mr. Ringelberg stated that he shot each dog once in the chest, and that each dog died immediately after being shot.
7. Mr. Ringelberg stated that he arrived at Mid South golf course between 8:35 and 8:45 a.m., and he shot the dogs around 9:00 a.m.
8. Mr. Ringelberg's incident report filed with Animal Center of Moore County states, in part, that he "talked to the guard at the gate at 8:15 a.m., located the dogs inside the tennis court at 8:20 a.m.
9. The incident report states that Mr. Ringelberg attempted to catch the dogs by catch pole and to lure the dogs with food, with no luck, and after 20 minutes, at 9:05 a.m., field euthanized both dogs to ensure public safety.
10. Mr. Ringelberg stated that he believed what he did by field euthanizing the two dogs was consistent with state law and Moore County's animal control ordinance.
11. The security log for the gate at Mid South golf course indicates that Mr. Ringelberg was admitted to the grounds at 8:54 a.m. on the morning of August 16, 2011.
12. The Mid South golf course security guard on duty during the morning of August 16, 2011, Mr. Barry Hemphill, called his supervisor at 9:14 a.m. to report that Moore County animal control had returned to the gate and reported to him that the stray dogs had been put down.
13. COL Candace Abbott (USA-Ret.) was in the area of the practice green at Mid South golf course at the time of the incident on August 16, 2011. She reported that she heard a gunshot

- at around 9:00 a.m., a yelping sound and a few seconds later, another shot and yelping.
14. COL Abbott stated that she and Pat Hagan went to the tennis courts where they saw two dogs on the ground, bleeding, and an animal control officer standing over one of the dogs.
  15. COL Abbott stated that she did not see a weapon in the animal control officer's hands at that time.
  16. Ms. Brenda B. White, Moore County Deputy Attorney, reported that the approximate distance on the road from the Mid South golf course security gate to the tennis court is 0.6 miles, and it requires approximately 1 minute 40 seconds to cover that distance in a car travelling approximately 25 to 30 mile per hour.
  17. Ms. White also reported that there are homes located approximately 75 to 80 yards from one side of the tennis court with an earthen berm between the courts and the homes that would probably have protected the home from a rifle shot that missed its target. She reported that there were homes to the North of the tennis courts, approximately 60 to 75 yards away, without a berm to protect them. She also reported that the tennis courts are approximately one minute's walking time from the swimming pool on the grounds.
  18. Mr. Ringelberg's statement that the dogs were likely to have been let out if he left and retrieved a tranquilizer indicates that the dogs were confined on tennis courts that were enclosed by a fence, and, at that time, were of no immediate threat to anyone not in the tennis courts with them.
  19. Mr. Ringelberg's statement indicates that he made no effort to secure assistance from anyone to catch the dogs before he euthanized them.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, alleges that Mr. Ringelberg, either by act or omission, violated the following provision of the N.C. General Statute:

- a) N.C. Gen. Stat. § 19A-24
- b) North Carolina Administrative Code 52J .0701:

§ 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).)

#### § 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 .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:
  - (a) Selling, diverting or giving away drugs or chemical substances;
  - (b) Stealing drugs or chemical substances;
  - (c) Misusing chemical substances; or
  - (d) Abetting anyone in the foregoing activities;
- (3) Euthanizing animals without supervision as required by this subchapter;
- (4) Allowing uncertified individuals to euthanize animals;
- (5) Allowing probationary Euthanasia Technicians to euthanize animals outside of the Certified Euthanasia Technician's presence.

- (6) Fraud, misrepresentation, or deception in obtaining certification;
- (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;
- (8) Conviction of any criminal offense as described in this Section;
- (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;
- (13) Revocation, Suspension or Limitation. The revocation, suspension, limitation, of a license, certificate or registration or any other disciplinary action by another state or United States jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a Certified Euthanasia Technician in that state or jurisdiction on grounds other than nonpayment of the renewal fee;
- (14) Failure of any applicant or certificate holder to cooperate with the North Carolina Department of Agriculture and Consumer Services during any investigation or inspection.

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

## 02 NCAC 52J .0701 METHODS OF EUTHANASIA PERMITTED UNDER EXTRAORDINARY CIRCUMSTANCES AND SITUATIONS

For purposes of this Section, extraordinary circumstance or situation includes a situation which is offsite from the shelter, in which an animal poses an immediate risk to animal, human or public health and in which no alternative, less extreme measure of euthanasia is feasible. It also includes circumstances or situations in which it would be inhumane to transport an animal to another location to perform euthanasia.

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

## 02 NCAC 52J .0702 GUNSHOT OR OTHER METHODS

Under extraordinary circumstances and situations which occur offsite from the shelter, a shelter employee may use gunshot or other extreme method of euthanasia as set forth in the American Veterinary Medical Association, Humane Society of the United States or American Humane Association Guidelines incorporated by reference in 02 NCAC 52J .0401.

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

II. CONCLUSIONS OF LAW

- A. Mr. Ringelberg violated 2 N.C. Administrative Code 52J .0701 and may be assessed a civil penalty of up to \$5,000.00 per violation pursuant to N.C. Gen. Stat. § 19A-40.
- B. The Director of the Animal Welfare Section, pursuant to N.C. Gen.Stat. § 19A-40, has the authority to assess civil penalties in this matter.
- C. The Director of the Animal Welfare Section, pursuant to N.C. Gen.Stat. § 19A-24 and 02 NCAC 52J .0419, has authority to suspend the euthanasia technician privileges and certification.

III. DECISION

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of 2 N.C. Administrative Code 52J .0402 and .0414.

Accordingly, Mr. Ringelburg is assessed a civil penalty of: \$500.00 for violating N.C. General Statute § 19A-24 and 2 North Carolina Administrative Code 02 NCAC 52J .0701, and his euthanasia technician privileges are suspended for six months.

**\$500.00 TOTAL AMOUNT ASSESSED**

12/23/11  
Date

  
\_\_\_\_\_  
Dr. Lee Hunter  
Director, Animal Welfare Section  
North Carolina Department of  
Agriculture & Consumer Services