



Steven W. Troxler  
Commissioner

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

R. Douglas Meckes, DVM  
State Veterinarian

July 2, 2015

Mr. Phillip Handy  
1309 Jewel Road  
Danbury, NC 27016

UPS Tracking Number  
1Z 21Ø 617 42 5662 1781

Re: REVOCATION OF EUTHANASIA TECHNICIAN CERTIFICATION  
Phillip Handy  
Euthanasia Technician Certification no. CET2014-0821PGH

Dear Mr. Handy:

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

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 enclosed 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 AWS finds evidence indicating that you performed any such duties or tasks following your receipt of this letter, 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.

The revocation is effective immediately upon receipt of this letter. If you have any questions concerning the basis for this order you may call me at (919)715-7111.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Norris", written over a horizontal line.

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  
Tina Hlabse, General Counsel, 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

)

ORDER OF REVOCATION

)

PHILLIP HANDY,

)

)

Respondent.

)

For Violations Of:

)

N. C. General Statute § 19A-32.1 (a), (b)

)

and 2 N.C. Administrative Code 52J

)

.0401, .0418, .0419, .0701, .0702, .0705

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

**I. FINDINGS OF FACT**

1. At all times pertinent to this matter the Respondent, Mr. Phillip Handy, was certified as an euthanasia technician pursuant to N.C. Gen. Stat. § 19A-24, employed by Stokes County Animal Shelter ("SCAS"), 1999 Sizemore Road, Germantown, NC 27019.
2. On June 24, 2015, NCDA&CS Animal Welfare Section received a citizen complaint concerning improper euthanasia occurring at SCAS.
3. AWS Inspector Lindsey Lloyd ("Inspector Lloyd") conducted a complaint investigation on-site from June 29 – July 1, 2015.
4. During this complaint inspection Inspector Lloyd inspected the shelter, examined animal records and conducted interviews.
5. The record examination revealed that Respondent performed at least six euthanasias prior to the 72 hour minimum holding period without proper documentation.
6. Credible evidence exists that in May 2015 Respondent performed at least one improper euthanasia which involved the cruel and inhumane treatment of the animal.
7. Credible evidence exists that Respondent performed, participated in and/or witnessed the inhumane euthanasia of multiple animals that involved improper euthanasia administration, failure to adequately confirm the death of the animal and/or the improper disposal of the animal.
8. Credible evidence exists that Respondent treated multiple animals in his care in a cruel and inhumane manner resulting in unjustifiable pain and suffering to the animals.
9. Credible evidence exists that Respondent improperly euthanized an animal by gunshot and he failed to report the use of gunshot to AWS as required.

10. During the course of the complaint investigation, Respondent failed to cooperate with the interview conducted by Inspector Lloyd on June 30, 2015.

11. During the course of the complaint investigation, Respondent failed to cooperate with the interview conducted by AWS Director Norris on July 1, 2015.

## **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](http://www.avma.org).

(2) The HSUS Euthanasia Training Manual can be purchased through their website at [www.hsus.org](http://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](http://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;
- (3) Order euthanasia supplies;
- (4) Maintain the security of all controlled substances and other drugs in accordance with applicable state and federal laws and regulations;
- (5) Directly supervise probationary Euthanasia Technicians;
- (6) Report to the appropriate government agencies violations or suspicions of a violation of the rules in this Subchapter or any abuse of drugs;
- (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
- (9) Notify the Animal Welfare Section as required in this Section upon leaving employment or volunteer status at a covered facility.

*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:
  - (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 personal 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.*

## **02 NCAC 52J .0705 REPORTS**

A licensee or registrant shall prepare a report of any euthanasia performed under extraordinary circumstances or situations, and keep the report on file for at least two years. The report shall include the date, time, identification of the animal, the name of the person performing the final euthanasia, the method of euthanasia and the reason for euthanasia of the animal as permitted by this Section.

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

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:

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

(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 shall adopt rules for the certification of euthanasia technicians. The rules may provide for:

- (7) Denial, suspension, or revocation of certification of euthanasia technicians who:
  - a. Violate any provision of this Article or rules adopted pursuant to this Article;
  - b. Have been convicted of or entered a plea of guilty or nolo contendere to:
    1. Any felony;

2. Any misdemeanor or infraction involving animal abuse or neglect; or
3. Any other offense related to animal euthanasia, the duties or responsibilities of a euthanasia technician, or a euthanasia technician's fitness for certification;

c. Make any false statement, give false information, or omit material information in connection with an application for certification or for renewal or reinstatement of certification as a euthanasia technician; or

d. Otherwise are or become ineligible for certification.

### III. DECISION

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

Date: 7/2/2015



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