



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

January 28, 2018

Barron S. Monroe II
Anson County Manager
101 South Greene Street, Suite 205
Wadesboro, North Carolina 28170
Via Hand Deliver

NOTICE OF CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT FOR VIOLATION OF TITLE 02 N.C.
ADMINISTRATIVE CODE CHAPTER 52J SECTION .0210(c)**

AWS-CP-2019-3

**Facility: Anson County Animal Shelter
Registration No. 43**

Dear County Manager Monroe:

Pursuant to N.C. General Statute § 19A-40, I am issuing this notice to you that Anson County is hereby assessed a civil penalty of \$1,500.00 as provided in the enclosed Notice of Violation.

With regard to the civil penalty, 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 with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. General Statute § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. 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. Patricia Norris
Director, Animal Welfare Section
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. General Statute § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days of your receipt of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to OAH. 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 at 919-431-3000.

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.

Your attention to this matter is appreciated.

Sincerely,

 *Patricia Norris*

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF	)	NOTICE OF VIOLATION AND
	)	ASSESSMENT OF CIVIL PENALTY
ANSON COUNTY	)	FOR VIOLATION OF 02 N.C.
OPERATOR OF	)	ADMINISTRATIVE CODE ("NCAC")
ANSON COUNTY	)	CHAPTER 52J SECTION .0210(c)
ANIMAL SHELTER	)	

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

FINDINGS OF FACT

1. At all times pertinent to this matter, Anson County Animal Shelter ("the shelter") operated by Anson County was an animal shelter, registered pursuant to NCGS § 19A-26.
2. On January 9, 2019, AWS received a complaint concerning the care of the animals housed at Anson County Animal Shelter. Based on the information in the complaint, AWS opened an investigation.
3. The investigation revealed:
 - a) Starting on February 2, 2018, a dog named Rae, Animal ID A37568935, was treated by the shelter for an ear discharge. The shelter only administered 1 of the 5 prescribed doses of ear ointment. The shelter only administered 6 of the 14 prescribed doses of oral antibiotics. Therefore, the shelter did not provide veterinary care for this animal as required by 02 NCAC 52J .0210(c);
 - b) On March 6, 2018, a dog named June, Animal ID A37994839, was examined by a veterinarian for a skin condition. The veterinarian prescribed Bravecto, ciprofloxacin for 14 days, ketoconazole for 6 days and the use of a medicated shampoo. There is no evidence that the shelter administered the Bravecto or the medicated shampoo baths. The shelter did not administer ciprofloxacin but administered cephalixin instead. The shelter discontinued administration of the cephalixin after 7 days instead of administering the entire 14-day course. The ketoconazole was only administered on one day instead of the 6 days prescribed by the veterinarian. Therefore, the shelter did not provide veterinary care for this animal as required by 02 NCAC 52J .0210(c);
 - c) On June 24, 2018, a dog named Jeb, Animal ID A38847724, was impounded and noted on the intake sheet to be injured. No veterinary care was provided to this dog as required by 02 NCAC 52J .0210(c);
 - d) From June 26 - 29, 2018, a puppy named Jen, Animal ID A38931716, was being treated with an antibiotic for a medical condition that was not documented in the animal's record. On June 29, 2018, this puppy was released to a new owner without full written disclosure of the medical condition of the animal as required by 02 NCAC 52J .0210(c);

- e) From June 26 - 29, 2018, a puppy named Katie, Animal ID A38931768 was being treated with an antibiotic for a medical condition that was not documented in the animal's record. On June 29, 2018, this puppy was released to a new owner without full written disclosure of the medical condition of the animal as required by 02 NCAC 52J .0210(c);
- f) On July 5, 2018, a dog named Cassie, Animal ID A39039791 was examined by a veterinarian and prescribed carprofen, gabapentin and eye ointment with all medications to be administered twice daily. Although the shelter did administer the carprofen and gabapentin twice daily, the eye ointment was only administered every other day for a total of 2 doses administered. Therefore, the shelter did not provide veterinary care for this animal as required by 02 NCAC 52J .0210(c);
- g) On July 18, 2018, a dog named Hank, Animal ID A39152245, was treated for demodectic mange. On July 29, 2018, this dog was released to a new owner without full written disclosure of the medical condition of the animal as required by 02 NCAC 52J .0210(c);
- h) Starting on November 8, 2018, a dog named Oliver, Animal ID A40127071, was being treated for 10 days with cephalexin for a wound on his back. As cephalexin has a minimal dosing regimen of twice daily, Oliver should have received 20 doses. The shelter only administered 4 of the 20 doses of cephalexin. Therefore, the shelter did not provide veterinary care for this animal as required by 02 NCAC 52J .0210(c);
- i) From December 8 - 13, 2018, a dog named Bandit, Animal ID A40335023, was being treated for a hip injury/wound. On December 13, 2018, this puppy was released a new owner without full written disclosure of the medical condition of the animal as required by 02 NCAC 52J .0210(c);
- j) From December 25 - 31, 2018, a puppy named Spare, Animal ID A40425455, was being administered medications for a medical condition that was not documented in the animal's record. On December 31, 2018, this puppy was released to a new owner without full written disclosure of the medical condition of the animal as required by 02 NCAC 52J .0210(c);

CONCLUSIONS

To the extent that the Findings of Fact contain Conclusion of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels. Based on the findings of this investigation, AWS concludes that the shelter, on 10 separate occasions from February 2, 2018 to December 31, 2018, either by act or omission, violated the following provisions:

02 NCAC 52J .0210(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

(See Appendix for text of referenced General Statutes and Administrative Code)

CIVIL PENALTIES

As required by N.C. General Statute § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Anson County is hereby assessed a civil penalty for the following violations:

\$100.00 for failing to provide full written disclosure of the medical condition to the new owner of the puppy named Jen, Animal ID A38931716; and

\$100.00 for failing to provide full written disclosure of the medical condition to the new owner of the puppy named Katie, Animal ID A38931768; and

\$100.00 for failing to provide full written disclosure of the medical condition to the new owner of the dog named Hank, Animal ID A39152245; and

\$100.00 for failing to provide full written disclosure of the medical condition to the new owner of the dog named Bandit, Animal ID A40335023; and

\$100.00 for failing to provide full written disclosure of the medical condition to the new owner of the puppy named Spare, Animal ID A40425455; and

\$200.00 for failing to provide veterinary care to the dog named Rae, Animal ID A37568935; and

\$200.00 for failing to provide veterinary care to the dog named June, Animal ID A37994839; and

\$200.00 for failing to provide veterinary care to the dog named Jeb, Animal ID A38847724; and

\$200.00 for failing to provide veterinary care to the dog named Cassie, Animal ID A39039791; and

\$200.00 for failing to provide veterinary care to the dog named Oliver, Animal ID A40127071.

\$1,500.00 TOTAL AMOUNT ASSESSED

Continued or future violation of the statutes or regulations referenced in this letter 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 NCGS § 19A-40.

January 28, 2019
Date

Patricia Norris, DVM, MS
Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

REFERENCED LAWS 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 .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. March 23, 2009; January 1, 2005.