



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Joseph W. Reardon
Assistant Commissioner
for Consumer Protection

Douglas Meckes, DVM
State Veterinarian

January 21, 2021

Nicole Jones
Owner
Loving Pup Resort
475 W. Jake Alexander Blvd
Suite 102-211
Salisbury, North Carolina 28147

NOTICE OF CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE ("NCAC") CHAPTER 52J SECTIONS .0102(3) and .0204(e).

AWS-CP-2021-3

**Facility: Loving Pup Resort
License #11143**

Dear Ms. Jones:

Pursuant to N.C. General Statute § 19A-40, I am issuing this notice that you individually and d/b/a Loving Pup Resort is hereby assessed a civil penalty of \$700.00 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.G.S. § 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). 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,

A handwritten signature in cursive script that reads "Patricia Norris, DVM, MS".

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 VIOLATIONS and
	)	ASSESSMENT of CIVIL PENALTY
NICOLE JONES	)	for VIOLATIONS of TITLE 02 N.C.
OWNER OF	)	ADMINISTRATIVE CODE CHAPTER
LOVING PUP RESORT	)	52J SECTIONS .0102(3) and .0204(e).
	)	

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, Loving Pup Resort ("the kennel") was a boarding kennel, licensed pursuant to N.C. General Statute ("NCGS") § 19A-28.
2. On December 30, 2020, AWS received a complaint concerning the injury of a dog named Luna while boarding at the kennel. AWS initiated an investigation based on the information contained in the complaint. The investigation centered on possible violation(s) of the N.C. Animal Welfare Act ("AWA") as these statutes and associated regulations are the extent of the jurisdiction of AWS.
3. On January 10, 2021, AWS Animal Health Technician Christie Shore ("Inspector Shore") conducted an unannounced site visit as part of the complaint investigation. The January 10, 2021 site visit revealed the following:
 - a. 5 dogs were housed in the indoor play area with no supervising employees monitoring the dogs in violation of 02 NCAC 52J .0204(e); and
 - b. during the discussion concerning the injury to Luna, Inspector Shore learned that the kennel owner had treated Luna's bite wounds with chlorhexidine prior to Luna's owner's arrival to pick his dog up. A review of the records for Luna show that the administration of the topical medication to the wounds was not documented in Luna's records as required by 02 NCAC 52J .0102(3).
4. A review of prior Facility Compliance Inspections ("FCI") and disciplinary actions for the kennel revealed the following:
 - a. the kennel was cited during the April 24, 2019 FCI for violation of 02 NCAC 52J .0204(e) for having more than 4 dogs housed together without supervision;
 - b. on May 3, 2019, AWS issued to the kennel a Notice of Warning for the violation of 02 NCAC 52J .0204(e) cited during the April 24, 2019 FCI;
 - c. the kennel was cited again during the June 22, 2020 FCI for violation of 02 NCAC 52J .0204(e) for having more than 4 dogs housed together without supervision; and
 - d. on July 27, 2020, AWS issued to the kennel a Denial of License Renewal and Notice of Deficiencies, in part, for repetitive violation of 02 NCAC 52J .0204(e).

CONCLUSIONS

As a result of this investigation, AWS concludes that the kennel, either by act or omission, violated the following provisions:

02 NCAC 52J .0102(3) for failing to maintain records of veterinary care provided for the dog named Luna; and

02 NCAC 52J .0204(e) for failing have at least one person supervising the dogs when more than more 4 dogs were housed within the play area on January 10, 2021.

CIVIL PENALTY

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, Nicole Jones as owner and operator of Loving Pup Resort is hereby assessed a civil penalty for the following violations:

\$200.00 for violation of 02 NCAC 52J .0102(3) for failing to maintain records of veterinary care provided for Luna; and

\$500.00 for violation of 02 NCAC 52J .0204(e) for having more than 4 dogs confined to a common area or enclosure (the play area) without supervision on January 10, 2021.

\$700.00 TOTAL AMOUNT ASSESSED

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

January 21, 2021
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-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 9; 1987, c. 827, s. 65; 1989, c. 544, s. 18; 2011-145, s. 31.5(b).)

§ 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.

§ 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.

02 NCAC 52J .0102 RECORDS; BOARDING KENNELS

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (3) veterinary care provided while boarded, which shall include date, times, description of medication (including name and dosage) and initials of person administering product or procedure.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.