



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 8, 2021

Bryan Land
County Manager
Richmond County
P. O. Box 504
Rockingham, NC 28380

NOTICE of CIVIL PENALTY and NOTICE of WARNING

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0207(a) and .0210(c); and NOTICE of WARNING for VIOLATION 02 NCAC 52J .0205(a) and .0210(c).

AWS-CP-2021-1

Facility: Richmond County Animal Shelter
Registration No. 142

Dear County Manager Land:

Pursuant to N.C.G.S. § 19A-40, I am issuing this notice that Richmond County as operator of the Richmond County Animal Shelter is hereby assessed a civil penalty of \$2,250.00 as provided in the enclosed Notice of Violations.

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.G.S. § 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 from the date 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

RICHMOND COUNTY
OPERATOR OF
RICHMOND COUNTY
ANIMAL SHELTER

) NOTICE of VIOLATION and
) ASSESSMENT of CIVIL PENALTY
) for VIOLATIONS of TITLE 02 N.C.
) ADMINISTRATIVE CODE ("NCAC")
) CHAPTER 52J SECTION .0207(a)
) and .0210(c) and NOTICE of WARNING for
) VIOLATIONS of 02 NCAC 52J .0205(a)
) and .0210(c).
)

Acting pursuant to N.C.G.S. § 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, Richmond County was the operator of the Richmond County Animal Shelter located at 529 US HWY 74 West, Rockingham, NC ("the shelter"), an animal shelter, registered pursuant to N.C.G.S. § 19A-26.
2. On October 21, 2019, AWS assessed a Civil Penalty of \$2000.00 against the shelter, which was resolved with a Settlement Agreement, for violations of N.C.G.S. § 19A-32.1(a) and (b)(2) and NCAC 52J .0210(c). Also, on October 21, 2019, AWS issued to the shelter a Notice of Warning for violations of N.C.G.S § 19A-32.1(i) and (j)(4) and 02 NCAC 52J .0101(5).
3. On October 2, 2020, AWS received a complaint alleging failure of the shelter to provide veterinary care to an injured dog named Princess in July 2020. Based on the information in the complaint, AWS opened an investigation.
4. The investigation involved:
 - a. A detailed review of the complaint;
 - b. A review of additional information and emails from the complainants;
 - c. Multiple unannounced site visits to the shelter;
 - d. Multiple discussions with the shelter staff and management about the allegations and shelter practices;
 - e. Multiple conversations with veterinarian and staff of the veterinary clinic that initially evaluated Princess;
 - f. A review of the veterinary medical records for Princess from the veterinary clinic that conducted the initial examination;
 - g. A conversation with the dog's original owner to whom the shelter released the dog;
 - h. A conversation with and a review of the veterinary medical records for Princess from the veterinary clinic that performed the second veterinary evaluation;
 - i. A conversation with rescue that ultimately provided the appropriate veterinary care for Princess and her injuries; and

- j. A review of the medical records from the veterinary clinic to which the rescue took Princess and that performed the surgery to address Princess' injuries.

5. The investigation into the complaint revealed:

- a. On July 19, 2020, a Richmond County Animal Control Officer ("ACO") picked up an apparently stray dog, later named Princess, from the median of a busy road. The ACO noted the dog was injured, unable to walk, presumably hit by a car ("HBC"). The ACO took Princess to the shelter and left her in a kennel at approximately 11:45 AM on Sunday July 19, 2020. The ACO reportedly did not contact any shelter staff member to inform them of the severely injured dog;
- b. A review of a written statement from the shelter director indicated that the shelter staff did not become aware of the presence of the injured animal until Monday July 20, 2020 as all the shelter staff had left before Princess arrived at 11:45 AM;
- c. The AWS Inspector reviewed the staff time card entries for this day with the shelter director and noted that the last staff member left around 10:21 AM. The shelter application states that the second daily cleaning required by 02 NCAC 52J .0207(a) occurs from 1:00 – 5:00 PM. Puppies and kittens less than 6 months of age must be feed at least twice daily with a minimum of an 8-hour interval between feedings pursuant to 02 NCAC 52J .0205(a);
- d. On July 20, 2020, the shelter director scheduled an appointment with a veterinarian to evaluate Princess and her injuries. The appointment was for July 21, 2020. Although bedding was provided to Princess, she was not provided with any pain medication while in the care and custody of the shelter;
- e. On July 21, 2020, the shelter director contacted the Richmond County Humane Society ("RCHS") to see if they would pay for the veterinary examination of Princess. The investigation revealed that it was a standard practice at that time for RCHS to fund the medical examination, treatment and/or euthanasia (if recommended) for shelter animals when asked by the shelter, if funds were available. Reportedly RCHS agreed to pay for Princess' veterinary examination;
- f. Conversations with the veterinarian and staff and a review of the records from the veterinary clinic that examined Princess on July 21, 2020 revealed the following:
 - i. The medical record for this dog noted the RCHS as the owner of this dog as RCHS authorized and paid for the provided services;
 - ii. The veterinarian noted that Princess was paralyzed, and his records note a "spinal lesion;"
 - iii. RCHS did not authorize diagnostic radiographs to allow for the full evaluation of the injuries;
 - iv. The veterinarian recommended euthanasia due to the severity of the injuries;
 - v. Unlike previous cases, RCHS did not authorize the veterinarian to perform the recommended euthanasia;
 - vi. The veterinarian communicated the recommendation for euthanasia to the RCHS representative but states that he never conveyed the information to the shelter staff as he thought the RCHS would relay the recommendation;
 - vii. The veterinarian did not dispense pain medication as he believed that the dog would be euthanized;
- g. Princess was transported back to the shelter from the veterinary clinic on July 21, 2020.
- h. Although there are texts between the shelter director and RCHS discussing the condition of Princess, there is no evidence that RCHS conveyed the veterinarian's recommendation for

euthanasia to the shelter. There is also no evidence that the shelter director independently sought out the veterinarian's recommendation or discussed options and requirements for the care of this severely injured dog with the veterinarian;

- i. On July 22, 2020, the original owner of Princess contacted the shelter after seeing a social media post about Princess.
- j. On July 23, 2020, the original owner reclaimed Princess from the shelter. Although the shelter director in a written statement says she explained the injuries to the owner reclaiming the dog, there is no evidence that shows that the shelter provided full written disclosure to this owner. The shelter director's written statement also notes that the owner was instructed to follow up with her personal veterinarian as Princess needed additional veterinary care. The shelter gave the owner a donated wheeled cart for Princess;
- k. A conversation with the owner of Princess revealed that she did not seek any veterinary care for Princess for her injuries and therefore, did not administer any pain medication to Princess during the subsequent 22 days after she reclaimed her from the shelter
- l. The complainant stated that on August 6, 2020, RCHS was contacted by Princess' owner wanting to owner surrender Princess. The complaint notes that RCHS believed this dog to be Princess from the July incident. They confirmed it was the same dog and agreed to take her.
- m. According to the owner and the owner surrender paperwork, Princess was owner surrendered to RCHS on August 14, 2020. The AWS investigation notes the RCHS paperwork dated August 14, 2020 contains information not obtained or known until August 18, 2020;
- n. There is no documentation of any pain medication being administered to Princess by RCHS while she was in their care and custody from August 14 – August 18, 2020;
- o. On August 18, 2020, RCHS took Princess to a second veterinarian for examination.
- p. Review of the veterinary records for this veterinary examination shows:
 - i. Princess was diagnosed with:
 - (a) a dislocated right hip;
 - (b) a severely fractured right femur (thigh bone) with callous formation (chronic changes to the bone);
 - (c) severe arthritis of the right stifle (knee); and
 - (d) severe fracture of the left tibia (lower leg bone) with displacement and callous formation;
 - ii. The veterinarian recommended euthanasia or a consultation with a veterinary orthopedic specialist;
 - iii. As RCHS wanted time to review their options, the veterinarian dispensed 2 pain medications to address Princess' significant, chronic pain; and
 - iv. The veterinarian also instructed that Princess be confined to strict crate confinement with leash walks only;
- q. A social media post, dated August 18, 2020, shows a video of Princess playing with another dog outside in a yard. The context of this video is a plea to raise funds (\$2,000.00) for Princess to see a specialist;
- r. A review of the time line of this case revealed that Princess received her first dose of pain medication 30 days after the day of the presumed HBC injury that left her paralyzed with a spinal injury, a dislocated hip and both rear legs severely fractured. Princess was not administered pain relief despite being in the continuous care and custody of the shelter, original owner and/or the RCHS during this time.
- s. The RCHS did not euthanize Princess or send her to an orthopedic specialist but rather, on August 19, 2020 RCHS transferred the dog to a rescue that was willing to assume the care of

this severely injured dog. The rescue took Princess to an orthopedic veterinary surgeon who amputated the right rear leg and surgically repaired the fracture in the left rear leg on August 24, 2020;

- t. According to the rescue, Princess is continuing to recover and is doing well with her new family.

CONCLUSIONS

To the extent that the Findings of Fact contain Conclusions 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 all parties involved (the shelter, the Richmond County Humane Society, and the original owner), during the majority or the entirety of the time in which the parties had care and custody of Princess, failed to provide appropriate veterinary care and relief of the severe pain that Princess endured from a spinal injury, dislocated hip and complete, displaced fractures of both hind legs.

In addition, AWS concludes that the shelter violated the following provisions:

02 NCAC 52J .0207(a) for failing to properly clean enclosures a minimum of two times per day on July 19, 2020; and

02 NCAC 52J .0210(c) for failing to euthanize or provide veterinary care to sick and diseased animals.

CIVIL PENALTIES

As required by NCGS § 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, Richmond County is hereby assessed a civil penalty for the following violations:

\$250.00 02 NCAC 52J .0207(a) for failing to properly clean enclosures a minimum of two times per day on July 19, 2020; and

\$2,000.00 for violation (second violation) of 02 NCAC 52J .0210(c) for failing to provide veterinary care for a seriously injured dog, Princess ID# A45119909 during the 4 days she was impounded at the shelter.

\$2,250.00 TOTAL AMOUNT ASSESSED

NOTICE of WARNING

As to the remaining violations, this Warning Letter serves as written notice indicating in which respects the shelter may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

02 NCAC 52J .0205(a) for failing to have staff available to feed puppies and kittens less than 6 months of age must be feed at least twice daily with a minimum of an 8-hour interval between feedings; and
02 NCAC 52J .0210(c) for failing to provide full written disclosure of the medical condition of an animal to the owner.

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 registration pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

1/8/2021

Date

Patricia Norris, DVM, MS

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

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

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-26. Certificate of registration required for animal shelter.

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided.

§ 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 .0205 FEEDING

(a) Dogs and cats shall be fed at least once each 24-hour period except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.

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

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

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

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.