



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

March 8, 2018

Nicole Jones
Owner
Loving Pup Resort
2230 Old Union Church Rd
Salisbury, North Carolina 28146

NOTICE OF SUSPENSION OF BOARDING KENNEL LICENSE AND NOTICE OF VIOLATION

Re: SUSPENSION OF BOARDING KENNEL LICENSE AND NOTICE OF VIOLATION OF TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC), CHAPTER 52J, SECTION .0210(b).

AWS-SU-2018-1

Boarding kennel: Loving Pup Resort
License Number: 11143

Dear Ms. Jones:

Pursuant to N.C. General Statutes §19A-30(2) and (8), I am issuing this notice to you that the boarding kennel license for Loving Pup Resort is hereby **SUSPENDED** effective 5 days from receipt of this notice. Additionally, this serves as written notice that you have violated Title 02 NCAC, Chapter 52J, Section .0210(b). You have 5 days to surrender the boarding kennel license certificate.

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, N.C. General Statute § 150B-23, within five (5) days of your receipt of this Order of Suspension.

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 5-day deadline for filing of a contested case petition.

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 accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("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

If the violations which resulted in the suspension are of a continuing or repeating nature, NCDA&CS reserves the right to take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Order of Suspension

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)	ORDER OF SUSPENSION OF
)	REGISTRATION AND NOTICE OF
NICOLE JONES)	VIOLATION OF TITLE 02 N.C.
OWNER OF)	ADMINISTRATIVE CODE ("NCAC")
LOVING PUP RESORT)	52J SECTION .0210(b)
)	
)	

Acting pursuant to N.C. General Statute §19A-30, 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") owned and operated by Nicole Jones, was a boarding kennel, licensed pursuant to N.C. General Statute §19A-28.
2. On January 22, 2018, Dr. Norris issued a warning letter to Nicole Jones as owner of the kennel. The January 22, 2018 Warning Letter detailed the findings of an investigation into citizens' complaints concerning animals becoming ill while boarding at the kennel.
3. The January 22, 2018 Warning Letter concluded that the kennel had violated 02 NCAC 52J Section .0210(b) by failing to obtain and follow a veterinarian's written recommendations for correcting a disease problem that persisted for more than 30 days at the facility.
4. The January 22, 2018 Warning Letter directed Nicole Jones, as owner of the kennel, to immediately obtain and implement written recommendations from a veterinarian to correct the disease problem present at the kennel and to submit a copy of these written recommendations to AWS.
5. As of February 27, 2018, neither the AWS Office nor the AWS Inspector for the facility had received a copy of the written veterinary recommendations from the kennel.
6. On March 1, 2018, AWS Animal Health Technician Christie Shore ("Inspector Shore") conducted a site visit at the kennel. When Inspector Shore requested a copy of the written veterinary recommendations to address the disease issue, Ms. Jones produced a 6-page document with the title "Cleaning Protocol." Ms. Jones informed Inspector Shore that the facility veterinarian had typed this information and signed the last page as the written veterinary recommendations.
7. On March 5, 2018, Inspector Shore contacted the veterinarian whose signature appeared on the cleaning protocol submitted by Ms. Jones. During the discussion concerning the cleaning protocol, Inspector Shore asked the veterinarian if she had typed it and meant it to serve as written recommendations for addressing the disease condition at the kennel. The veterinarian relayed to Inspector Shore that: 1) she recalls Ms. Jones did speak with her concerning which chemicals to use to clean the kennel and that Ms. Jones showed her a list of chemicals; but 2) the veterinarian says that Ms. Jones never discussed a disease condition at the kennel with her and never requested written

recommendations from her; and 3) the veterinarian states she did not provide any written recommendations to the kennel owner.

8. On March 6, 2018, the veterinarian replied to an email that Inspector Shore sent to her on March 5, 2018. The veterinarian's reply stated that: 1) although the signature appeared to be hers, the date was certainly not her handwriting; and 2) she does not recall reading or signing that piece of paper.
9. On March 6, 2018, Dr. Norris conducted an internet search and found the majority of the "cleaning protocol" submitted by the kennel to be from an article on shelter cleaning on a popular pet adoption website. The cleaning protocol does not address correcting the disease condition present at the facility.

CONCLUSIONS

As a result of this investigation, the AWS finds that the kennel, either by act or omission, willfully disregarded or violated the provisions of 02 NCAC 52J .0210(b) by failing to obtain and follow a veterinarian's written recommendations for a disease problem that persisted for more than 30 days at the facility. These violations were noted on site visits to the kennel on January 2, 2018 and March 1, 2018.

In addition, AWS concludes that:

- a) The kennel has willfully disregarded or violated the N.C. Animal Welfare Act ("AWA") and rules issued pursuant thereto; and
- b) The kennel fails to possess the necessary qualifications to meet the requirement of the AWA for the holding of a boarding kennel license.

SUSPENSION OF LICENSE AS A BOARDING KENNEL

Pursuant to N.C. General Statutes §19A-30(2) and (8), and due to the severity of violations of the AWA and its associated regulations noted in the Conclusions section, as well as the failure of the kennel to implement corrective actions for these violations, I am hereby suspending the boarding kennel license for Loving Pup Resort. This suspension is effective 5 days after the receipt of this notification. The boarding kennel must cease operations 5 days after the receipt of this notification and find suitable accommodations for animals in its care and custody.

This suspension shall remain in effect until the following conditions have been met:

- 1) The kennel complies with all statutes and regulations of the AWA and its associated rules (02 NCAC 52J Sections .0100 - .0800); and
- 2) The owner of the kennel submits to AWS an updated Boarding Kennel License application that reflects current, compliant policies and procedures of the kennel;
- 3) The owner of the kennel obtains and follows written veterinary recommendations for addressing the disease condition present at the kennel;
- 4) The owner of the kennel submits to AWS a copy of the written veterinary recommendations noted in #3 above; and
- 5) The kennel submits to and passes an AWS facility inspection prior to boarding any animals at the facility.

Pursuant to N.C. General Statute §19A-28 no person shall operate a boarding kennel unless a license for such an establishment shall have been granted by the AWS Director. Pursuant to N.C. General Statute § 19A-33, operation of a boarding kennel without a currently valid license shall constitute a Class 3 misdemeanor subject to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00, and each day of operation shall constitute a separate offense.

Continued or future violations of the AWA statutes or associated regulations will be considered a willful disregard or violation of the AWA and the rules issued pursuant thereto. Such willful disregard or violation may result in further action against your facility's license pursuant to NC General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NC General Statute §19A-40.

March 8, 2018
Date



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

Appendix

RELEVANT 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 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-32. Procedure for review of Director's decisions.

A denial, suspension, or revocation of a certificate or license under this Article shall be made in accordance with Chapter 150B of the General Statutes. (1977, 2nd Sess., c. 1217, s. 13; 1987, c. 827, s. 68.)

§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense. (1977, 2nd Sess., c. 1217, s. 14; 1993, c. 539, s. 315; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 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.)

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

02 NCAC 52J .0210 VETERINARY CARE

(b) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

January 22, 2018

Nicole Jones
Owner
Loving Pup Resort
2230 Old Union Church Rd
Salisbury, North Carolina 28146

Notice of Warning

**Re: Violation of Title 02 N.C. Administrative Code ("NCAC") Chapter 52J
Sections .0102(1), .0207(a) and .0210(b) and (d).**

AWS-WL-2018-1

Boarding kennel: Loving Pup Resort
License Number: 11143

Dear Ms. Jones:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") received two complaints concerning the Loving Pup Resort ("the kennel"). Based on the information within this complaint, AWS opened an investigation. The investigation included a review of the complaint, a site visit, a facility inspection, interviews with kennel management and staff, a review of relevant kennel records, interview with the attending veterinarian and reviews of the veterinary medical records of the dogs referenced in the complaints.

The investigation findings include:

- 1) The five dogs referenced within the complaints were boarded at the facility and four dogs were either were ill at the time of release from the facility or became ill shortly after the release from the facility. Two of the dogs required veterinary care for the illnesses.
- 2) At the time of the facility inspection on January 2, 2018, none of the enclosures housing animals had water available to the animals.
- 3) During the interview on January 2, 2018, kennel staff relayed that the dogs had been without water for 3 hours. Upon being given water, the dogs were noted to drink very thirstily. Two of the dogs completely consumed all the offered water and continued to drink when the bowl was refilled.
- 4) Given that the laboratory results from one of the ill animals referenced in the complaint indicated that the animal was suffering from a contagious disease, the AWS Inspector directed the kennel to obtain and implement written veterinary recommendations for correcting the disease problem. The AWS Inspector further directed the kennel to provide a copy of these

disease problem. The AWS Inspector further directed the kennel to provide a copy of these written veterinary recommendations within 10 days of the Disapproved Inspection on January 2, 2018 to AWS. As of January 19, 2018, the kennel has failed to provide a copy of these recommendations to AWS.

- 5) At the time of the January 2, 2018 facility inspection, the AWS Inspector noted a strong odor in the facility. She also noted a buildup of debris in the drains and partitions between the enclosures which is not in compliance with NCAC 52J .0207(a).
- 6) At the time of the January 2, 2018 facility inspection, the AWS Inspector noted that kennel records showed that 3 of the dogs on the premises were not in compliance with North Carolina rabies law General Statute 130A Article 6, Part 6 as required by NCAC 52J .0210(d).
- 7) At the time of the January 2, 2018 facility inspection, the AWS Inspector noted that the kennel records were not in compliance with NCAC 52J .0102(1)

Based on the results of this investigation and facility inspection, the kennel appears to have violated NCAC 52J .0102(1), .0207(a), and .0210(b) and (d).

Therefore, at this time, I am directing the kennel to immediately do the following:

- 1) Obtain and implement written recommendations from a veterinarian to correct the disease problem present at the kennel; and
- 2) Submit to AWS a copy of the written recommendations from a veterinarian to correct the disease problem present at the kennel; and
- 3) Implement a facility cleaning and sanitation protocol that is in compliance with 02 NCAC 52J .0207; and
- 4) Submit to AWS a written protocol detailing the facility cleaning and sanitation procedures; and
- 5) Implement a record keeping protocol that is in compliance with 02 NCAC 52J .0102; and
- 6) Have all animals in the facility in compliance with the NC rabies law General Statute 130A, Article 6, Part 6 as required by 02 NCAC 52J .0210(d)

This Warning Letter serves as written notice indicating in which respects the kennel has violated the N.C. Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of these statutes or regulations 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 N.C. General Statute § 19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

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

Appendix

REFERENCED STATUES 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 .0102 RECORDS; BOARDING KENNELS

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

- (1) name and address of owner or person responsible for animal, the date of entry and signature and address of individual to whom animal is released and the date of release;
- (2) description of animal including breed, sex, age and color marking; and
- (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 .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.

(b) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.
- (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.
- (3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:
 - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
 - (B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or
 - (C) cleaning all soiled surfaces with live steam.
- (4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.
- (5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.
- (6) Any area accessible to multiple animals shall be kept clean and sanitary.

(c) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.

(d) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

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

(b) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem.

(d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.