



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

May 22, 2023

Sheriff W. Rogers
Columbus County Sheriff's Office
817 Washington Street
Whiteville, NC 28472

NOTICE of WARNING

Re: Violation of NC General Statute ("NCGS") § 19A-32.1(a).

AWS-WL-2023-10

Facility: Columbus County Sheriff's Animal Protective Services Animal Shelter
Registration Number: 2

Dear Sheriff Rogers:

On May 8, 2023, the Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") received a complaint concerning the adoption of 2 puppies from the Columbus County Sheriff's Animal Protective Services Animal Shelter (the "shelter") that developed parvovirus 14 days after the adoption. 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.

On May 11, 2023, AWS Animal Health Technician Pat Sholar ("Inspector Sholar") conducted an unannounced site visit as part of the complaint investigation. The May 11, 2023, site visit noted the following:

- a. the litter of puppies relevant to the complaint were taken into the shelter on April 12, 2023 as stray puppies. These two puppies were then adopted on April 14, 2023;
- b. the staff relayed the reason for not holding the puppies for the 72-hour minimum holding period required by NCGS § 19A-32.1(a) was that, due to the puppies young age, the shelter was concerned that the longer they stayed at the shelter, the higher the risk for the puppies to contract an infectious disease such as parvo or distemper. The shelter relayed that, as these diseases were present in the community, the staff was concerned for the welfare of the puppies; and
- c. the staff also relayed that, they have been in contact with the person that adopted one of the littermates of these 2 puppies on April 18, 2023 and that, as of May 3, 2023, that puppy continues to be healthy.

Based on the findings of this complaint investigation, the shelter may have violated NCGS § 19A-32.1(a) which requires that all animals received by an animal shelter to be held for a minimum holding period of 72 hours unless the animal meets the exceptions allowed for in that statute.

This Warning Letter serves as written notice indicating in which respects the shelter may have violated the N.C. Animal Welfare Act ("AWA") and the rules issued pursuant thereto. The shelter is directed to immediately comply with the AWA and its associated rules.

The concern for the health of young puppies in the care of the shelter is commendable. One possible solution that may address these concerns is for the shelter to consider developing and implementing a foster-to-adopt option. For young, stray animals, this would allow the release the animals to those wishing to adopt the animals before the 72-hour minimum hold is fulfilled and still be in compliance with the statutes. To comply with NCGS § 19A-32.1(d) in this situation, a photograph of the animal in foster care must be maintained at the shelter so that it can be viewed by the general public. If you would like additional information on foster-to-adopt programs, please feel free to contact your AWS Inspector.

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: Michael Martin, DVM, State Veterinarian;
Jonathan Lanier, General Counsel, NCDA&CS;
Christina L. Waggett, Assistant Commissioner, NCDA&CS;
Christopher R. McLennan, Special Deputy Attorney General

Appendix

REFERENCED STATUTES 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.

§ 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.

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(d) During the minimum holding period, an animal shelter may place an animal it is holding into foster care by transferring possession of the animal to an approved foster care provider, an approved rescue organization, or the person who found the animal. If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of as provided in subsection (f) of this section.