



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

October 17, 2023

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

NOTICE of CIVIL PENALTY and NOTICE of WARNING

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0101(6); .0103; .0207(b); .0210(a)(3), (b), (c) and (d); and NOTICE OF WARNING for VIOLATION of 02 NCAC 52J .0209(6).

AWS-CP-2023-21

**Facility: Columbus County Animal Protective Services Animal Shelter
Registration Number 2**

Dear Sheriff Rogers:

Pursuant to NCGS § 19A-40, I am issuing this notice that Columbus County Sheriff's Office as the operator of the Columbus County Animal Protective Services Animal Shelter ("the shelter") is hereby assessed a civil penalty of \$3,200.00 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 NCGS § 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 NCGS § 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.

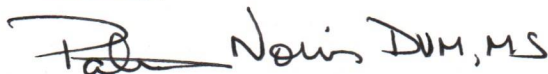
You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Jonathan Lanier
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 black ink that reads "Patricia Norris DVM, MS". The signature is written in a cursive style with a large initial "P".

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

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

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

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

IN THE MATTER of)	NOTICE of VIOLATION and
COLUMBUS COUNTY)	ASSESSMENT of CIVIL PENALTY
SHERIFF'S OFFICE)	for VIOLATIONS of TITLE 02 NC
OPERATOR of)	ADMINISTRATIVE CODE ("NCAC")
COLUMBUS COUNTY)	CHAPTER 52J SECTIONS .0101(6); .0103;
ANIMAL PROTECTIVE SERVICES)	.0207(b); .0210(a)(3), (b), (c), and (d); and
ANIMAL SHELTER)	NOTICE of WARNING for VIOLATION of
)	02 NCAC 52J .0209(6).
)	

Acting pursuant to NCGS § 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, the Columbus County Animal Protective Services Animal Shelter ("the shelter"), operated by Columbus County Sheriff's Office, was an animal shelter registered pursuant to NCGS §19A-26.
2. On October 3, 2023, AWS received a complaint alleging failure to provide veterinary care to animals that appeared to be suffering from a parvovirus infection. Based on this information, AWS opened an investigation. 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 October 4, 2023, AWS Animal Health Technician Christina Tolley ("Inspector Tolley") conducted the site visit portion of the investigation. The site visit revealed the following:
 - a. the shelter staff relayed that the dog named Layla (shelter ID# 1515) was noted to be very thin and lethargic on intake but this information was not noted in the medical portion of the animal's shelter record in violation of 02 NCAC 52J .0101(6) which requires records to be accurate and created or updated within 48 hours of intake or other occurrence;
 - b. the shelter staff was unable to provide any current medical records for the dogs that were impounded at the shelter at the time of the site visit upon request by Inspector Tolley during the investigation in violation of 02 NCAC 52J .0103;
 - c. during the cleaning of the kennels, Inspector Tolley observed a dog was placed in contact with wastewater contaminated with biological matter that was being flushed out of an adjacent kennel in violation of 02 NCAC 52J .0207(b);
 - d. in violation of 02 NCAC 52J .0209(6), the dogs with communicable disease were not isolated from the general population of dogs. The shelter staff relayed that they were working on converting a room previously used to housed cats into a fully functional isolation room for dogs;
 - e. the shelter staff relayed that the shelter has been struggling with a parvovirus outbreak since

- August 19, 2023. Although the shelter discussed the case diagnosed on August 19, 2023 with their veterinarian, they had not verbally consulted with their veterinarian when the disease problem persisted for more than 7 days in violation of 02 NCAC 52J .0210(b) or when the disease problem persisted for more than 30 days in violation of 02 NCAC 52J .0210(c);
- f. the dog named Dakota (shelter ID# 1495) was impounded as a stray on September 28, 2023. The shelter staff revealed that they noted the dog to have bloody feces on September 28, 2023. The complaint noted that this dog had bloody stool in its kennel on October 3, 2023. Despite the bloody stool being first noted and documented on September 28, 2023 by the shelter staff, the shelter did not provide veterinary care to this dog in violation of 02 NCAC 52J .0210(d) which requires animals to be provided with adequate veterinary care in a timely manner or be euthanized. The dog was euthanized on October 3, 2023 after the parvovirus test was noted to be positive; and
 - g. the dog named Layla, impounded as a stray, (shelter ID# 1515) was noted to very thin and lethargic upon intake on September 29, 2023. The complaint noted that Layla appeared to be very thin and weak on October 3, 2023. Despite Layla being visibly lethargic and weak, the shelter did not provide any veterinary care in violation of 02 NCAC 52J .0210(d). This dog was euthanized on October 4, 2023 prior to the site visit.
4. As part of the investigation, the shelter's written Program of Veterinary Care (PVC) was reviewed. This review noted:
- a. in the 2023-2024 Animal Shelter Registration Renewal application, as part the PVC, in the section detailing the procedure for the isolation of incoming ill animals as well as animals that become ill during their stay at the facility, the shelter wrote: "We take all injured/ill animals straight to the vet;"
 - b. in the 2023-2024 Animal Shelter Registration Renewal application, as part the PVC, in the section detailing the shelter's protocol for providing adequate veterinary care, the shelter wrote: "If we have an ill or injured animal picked up or come in, they immediately go to the vet;" and
 - c. given that the shelter failed to take 2 dogs, Dakota and Layla, that were visibly ill, to the veterinarian, the shelter failed to implement and follow its PVC in violation of 02 NCAC 52J .0210(a)(3).

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 the AWS investigation, AWS concludes that the shelter has violated .0101(6); .0103; .0207(b); 0209(6); and .0210(a)(3), (b), (c) and (d).

AWS concludes that the shelter violated the following provisions:

02 NCAC 52J .0101(6) for failure to create medical records within 48 hours of the intake for Layla as noted on October 4, 2023

02 NCAC 52J .0103 for failure to provide the required records for the animals impounded at the shelter during the site visit on October 4, 2023

02 NCAC 52J .0207(b) for failure to take adequate measures to protect the animals from being contaminated with water and other wastes as noted on October 4, 2023

02 NCAC 52J .0209(6) for failure to designate an isolation area for animals being treated or observed for communicable diseases and failure to separate animals being treated for a communicable disease in such a way to minimize dissemination of the disease as noted on October 4, 2023

02 NCAC 52J .0210(a)(3) for failure to implement and follow the PVC as noted on October 4, 2023

02 NCAC 52J .0210(b) for failure to consult with a veterinarian for procedures to mitigate the infectious disease if the outbreak persists for more than 7 days at the shelter as noted on October 4, 2023

02 NCAC 52J .0210(c) for failure obtain and follow a veterinarian's written recommendations for correction of a disease problem that persists for more than 30 days at the facility as noted on October 4, 2023

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to Dakota for bloody feces as noted on October 4, 2023

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to Layla for lethargy and weakness as noted on October 4, 2023

Pursuant to NCGS §§ 19A-30 and 19A-40, these violations can result in the suspension, revocation or refusal to renew a registration for any animal shelter and/or the assessment of a civil penalty of up to \$5,000 per violation.

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, Columbus County Sheriff's Office as the operator of the Columbus County Animal Protective Services Animal Shelter is hereby assessed a civil penalty for the following violations:

\$100.00 for violation of 02 NCAC 52J .0101(6) for failure to create medical records within 48 hours of the intake for Layla as noted on October 4, 2023

\$200.00 for violation of 02 NCAC 52J .0103 for failure to provide the required records for the animals impounded at the shelter during the site visit on October 4, 2023

\$200.00 for violation of 02 NCAC 52J .0207(b) for failure to take adequate measures to protect the animals from being contaminated with water and other wastes as noted on October 4, 2023

\$200.00 for violation of 02 NCAC 52J .0210(a)(3) for failure to implement and follow the PVC as noted on October 4, 2023

\$500.00 for violation of 02 NCAC 52J .0210(b) for failure to consult with a veterinarian for procedures to mitigate the infectious disease if the outbreak persists for more than 7 days at the shelter as noted on October 4, 2023

\$500.00 for violation of 02 NCAC 52J .0210(c) for failure obtain and follow a veterinarian's written recommendations for correction of a disease problem that persists for more than 30 days at the facility as noted on October 4, 2023

\$1,000.00 for violation of 02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to Dakota for bloody feces as noted on October 4, 2023

\$500.00 for violation of 02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to Layla for lethargy and weakness as noted on October 4, 2023

\$3,200.00 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 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.

NOTICE of WARNING


As to the remaining violation of 02 NCAC 52J .0209(6), 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.

AWS strongly recommends that the shelter develop and implement written protocols to avoid future violations of these rules.

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 registration 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.

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

October 17, 2023
Date


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

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 .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (6) all records shall be created and/or updated within 48 hours of the occurrence of procedures, including but not limited to intake, change of location, medication or treatment administration and/or disposition. The record shall be accurate; creation of a misleading record or deliberate or non-incidental falsification of a record including medication administration documentation during or after an investigation or inspection shall be considered a violation of this regulation.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985; Readopted Eff. September 1, 2022.

02 NCAC 52J .0103 INSPECTION OF RECORDS

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the Director or his or her authorized representative on request, during the business and cleaning hours listed on the license application and/or during an inspection of the facility or an investigation. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released from a boarding kennel or sold from a pet store or public auction. Animal shelters shall maintain records required by the Animal Welfare Act or this Subchapter for a period of three years after the disposition of the animal.

History Note: Authority G.S. 19A-24; 19A-25; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985; Readopted Eff. September 1, 2022.

02 NCAC 52J .0207 SANITATION

(b) 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 clean 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; Readopted Eff. September 1, 2022.

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure or confined to an exercise area shall be maintained in compatible groups, with the following additional restrictions:

- (6) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable disease, including the identification of the disease. Accessories, cleaning equipment and supplies used in isolation areas shall not be used in other areas of the facility.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; Readopted Eff. September 1, 2022.

02 NCAC 52J .0210 VETERINARY CARE

(a) A written program of veterinary care ("PVC") to include disease control and prevention, vaccination, euthanasia (animal shelters only), disposition of diseased, ill, injured, infirm or deformed animals, and provision of adequate routine and emergency veterinary care shall be established with the assistance of a licensed veterinarian by any person who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes. The following is required of each PVC:

- (3) The facility shall implement and follow the PVC; and
- (b) If there is an infectious disease outbreak that persists for more than seven days at the facility, the facility operator shall consult with a veterinarian for procedures to mitigate the problem. This consultation shall be documented by the facility.
- (c) 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. These recommendations shall include, at a minimum: sanitation of primary enclosures, common areas, exercise areas and accessories, and protocols for animal intake, evaluation, isolation, disease recognition and treatment and euthanasia (in animal shelters).
- (d) Each dog and cat shall be observed daily by the animal caretaker who has been adequately trained or is experienced in animal care or is under the direct supervision of a person who has such training or experience. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with adequate veterinary care in a timely manner or be euthanized, provided that the euthanasia shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If an animal cannot be euthanized due to a required holding period and does not meet the criteria of G.S. 19A-32.1(b)(2), then adequate veterinary care shall be provided to the animal.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005; Readopted Eff. September 1, 2022.