



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

November 6, 2024

Rick Hester
Johnston County Manager
P. O. Box 1049
Smithfield, NC 27557
Via hand delivery

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE (“NCAC”) CHAPTER 52J SECTION 0.210(d).

AWS-CP-2024-23

**Facility: Johnston County Animal Services Animal Shelter
Registration Number 28**

Dear County Manager Hester:

Pursuant to NCGS § 19A-40, I am issuing this notice that Johnston County as the operator of the Johnston County Animal Services Animal Shelter (“the shelter”) is hereby assessed a civil penalty of \$1,000.00 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 blue ink, appearing to read "Patricia Norris DVM MS".

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 JOHNSTON

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

IN THE MATTER of)	NOTICE of VIOLATION and
JOHNSTON COUNTY)	ASSESSMENT of CIVIL PENALTY
OPERATOR of)	for VIOLATIONS of TITLE 02 NC
JOHNSTON COUNTY)	ADMINISTRATIVE CODE (“NCAC”)
ANIMAL SERVICES)	CHAPTER 52J SECTION .02010(d)
ANIMAL SHELTER)	
)	

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 Johnston County Animal Services Animal Shelter (“the shelter”), owned and operated by Johnston County was an animal shelter registered pursuant to NCGS §19A-26.
2. On October 8, 2024, AWS received a complaint alleging that the shelter had neglected an injured dog named Roscoe and as a result the dog required emergency care and amputation of his right front leg upon adoption from the shelter. 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 9, 2024, AWS Outreach Coordinator Joe Blomquist (“Coordinator Blomquist”) conducted the site visit portion of the investigation. The site visit revealed:
 - a. on October 1, 2024, the injured dog named Roscoe was impounded as a stray at the shelter. The person who found Roscoe and took him to the shelter offered to adopt him should his original owner not reclaim him within the 72-hour hold period;
 - b. on October 1, 2024, the shelter took Roscoe to a veterinary clinic for care. During that visit, the veterinarian treated the wound on the right front paw and placed a pressure wrap on the leg leaving the toes exposed so they could be monitored. Antibiotics and pain medications were prescribed but not dispensed because the shelter had the medications on site;
 - c. shelter medication logs for this dog show that cephalexin and Levafen® were administered twice daily as prescribed;
 - d. there was no shelter documentation for monitoring, rechecking, or daily evaluation of the injured paw or pressure bandage that was applied by the veterinarian on October 1, 2024 during the following 6 days that Roscoe was in the care and custody of the shelter;
 - e. Roscoe was adopted on October 7, 2024 by the person that found him on October 1, 2024; and
 - f. the original pressure wrap applied by the veterinarian on October 1, 2024 was still on Roscoe’s leg at the time of his adoption on October 7, 2024.

4. A review of the medical records and a conversation with the veterinary clinic that treated Roscoe for the shelter on October 1, 2024 revealed that:
 - a. Roscoe was treated for a laceration that severed the flexor tendons of the right front paw. Because there was “No \$’s for cleaning and suturing,” the wound was cleaned, sprayed with 2% epinephrine and a pressure wrap was placed. The toes were left uncovered so if “they swell tomorrow, the wrap can be loosened of (sic – or) redone.” Cephalexin and carprofen were prescribed; and
 - b. Coordinator Blomquist spoke with the treating veterinarian who stated that he never instructed the Animal Control or shelter staff to change the bandage in a week.
5. Communications with the person who adopted Roscoe revealed:
 - a. when she picked up Roscoe on October 7, 2024, she immediately noticed the bandage was wet;
 - b. as she was preparing to remove the bandage, she noted the overwhelming smell of decaying flesh;
 - c. due to these conditions, she immediately took Roscoe to an emergency clinic on October 7, 2024.
6. The review of the medical records for veterinary care provided to Roscoe after he was adopted showed that:
 - a. On October 7, 2024, he was presented to the emergency veterinary clinic with a swollen painful right front leg. He was found to be “a little shocky and in severe pain and lethargic.” He was hospitalized and provided with veterinary care. The veterinarian discussed the likely need for an amputation given the severity of the condition of the right front leg;
 - b. Roscoe was transferred to his primary care veterinarian on October 9, 2024 for continued care. Roscoe’s right front leg was amputated at the shoulder on October 10, 2024.

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 finds that the shelter violated the following provisions:

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to the dog named Roscoe from October 2 – 7, 2024. While the shelter had the veterinarian place a pressure wrap on Roscoe’s leg on October 1, 2024, adequate follow-up veterinary care was not provided. This wrap was left unchecked and allowed to become unsanitary as his condition continued to worsen. This failure to provide adequate veterinary care in a timely manner resulted in the need for emergency veterinary care and subsequent amputation of Roscoe’s front leg

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 violation listed above.

Accordingly, Johnston County as the owner and operator of the Johnston County Animal Services Animal Shelter is hereby assessed a civil penalty for the following violations:

\$1,000.00 for violation of 02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to the dog named Roscoe from October 2 – 7, 2024. While the shelter had the veterinarian place a pressure wrap on Roscoe's leg on October 1, 2024, adequate follow-up veterinary care was not provided. This wrap was left unchecked and allowed to become unsanitary as his condition continued to worsen. This failure to provide adequate veterinary care resulted in the need for emergency veterinary care and subsequent amputation of Roscoe's front leg.

\$1,000.00 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.

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

November 6, 2024

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 .0210 VETERINARY CARE

(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.