



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

January 19, 2023

Kimberly Parrish  
SPCA Board President  
SPCA of Northeastern NC  
102 Enterprise Drive  
Elizabeth City, North Carolina 27909

**NOTICE of CIVIL PENALTY**

**Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTION .0210(d)**

**AWS-CP-2023-2**

**Facility: SPCA of Northeastern NC Animal Shelter  
Registration Number: 138**

Dear Ms. Parrish:

Pursuant to NCGS § 19A-40, I am issuing this notice that SPCA of Northeastern NC as owner and operator of the SPCA of Northeastern NC 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,



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  
Kimberly Parrish, Registered Agent; P. O. Box 1772, Elizabeth City, NC 27909

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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

IN THE MATTER OF )  
 )  
SPCA OF NORTHEASTERN NC )  
 )  
OWNER OF )  
 )  
SPCA OF NORTHEASTERN NC )  
ANIMAL SHELTER )  
 )  
 )

NOTICE of VIOLATION and  
ASSESSMENT of CIVIL PENALTY  
for VIOLATION of TITLE 02 NC  
ADMINISTRATIVE CODE (“NCAC”)  
CHAPTER 52J SECTION .0210(d).

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 SPCA of Northeastern NC Animal Shelter (“the shelter”) owned and operated by the SPCA of Northeastern NC was an animal shelter, registered pursuant to NCGS § 19A-26.
2. On December 4, 2022, AWS received a complaint concerning the failure to treat ill animals at 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. AWS received an additional complaint on December 29, 2022, containing similar allegations of failure to provide veterinary care to animals in the care and custody of the shelter.
3. As part of the complaint investigation, AWS Outreach Coordinator Joe Blomquist (“Coordinator Blomquist”) reviewed the allegations in the complaint. The allegations included:
  - a. on September 16, 2022, a cat named Crystal (Shelter ID # A51095874) was in labor and had passed 2 deceased kittens. Shelter management declined to have the cat examined by a veterinarian or euthanized. Upon the being informed that the shelter would not provide veterinary care to Crystal and that no one authorized to perform euthanasia was present at the shelter, a shelter volunteer arranged the cat’s transfer to a rescue. The rescue took Crystal to a veterinarian for medical care; and
  - b. the cat named Heidi (Shelter ID #A0050933144) was nursing a litter of kittens. The kittens were in the care and custody of the shelter for a least 2 weeks when they began passing away. The last kitten was given to a foster care provider on October 12, 2022. According to the foster care provider, the kitten was emaciated, lethargic, fecally incontinent, passing tapeworms, and infested with fleas. The foster care provider took the kitten to the veterinarian on October 13, 2022. The veterinarian determined that due to the extremely poor condition of

- the kitten, the most humane option for this kitten was euthanasia. The kitten was euthanized by the veterinarian during the office visit on October 13, 2022;
4. As part of the complaint investigation, Coordinator Blomquist conducted an unannounced site visit of the shelter on December 9, 2022. The findings for the site visit included:
    - a. a review of the shelter records for the cat named Crystal did not show the provision of any veterinary care by the shelter on or around September 16, 2022, when she went into labor; and
    - b. a review of the shelter records for the kitten referenced in the complaint did not show the provision of any veterinary care by the shelter to this kitten.
  5. As part of the investigation, Coordinator Blomquist reviewed documentation from the veterinarians that examined the kitten and the cat named Crystal. The veterinary medical records show:
    - a. on September 16, 2022, the veterinarian examined Crystal and found her to be in "extreme distress." The veterinarian performed an emergency ovariohysterectomy and found that Crystal had 4 deceased kittens remaining in her uterus. The surgery was completed, and Crystal's recovery was "uneventful;" and
    - b. on October 13, 2022, the veterinarian examined the kitten referenced in the complaint and found that that the kitten was "very weak, severely dehydrated, and thin." The veterinarian euthanized the kitten at the conclusion of the examination.

## 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 the shelter violated the following provisions:

02 NCAC 52J .0210(d) for failure to provide adequate and timely veterinary care to the cat named Crystal on September 16, 2022; and

02 NCAC 52J .0210(d) for failure to provide adequate and timely veterinary care to the kitten prior to October 12, 2022.

## 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, SPCA of Northeastern NC as owner and operator of the SPCA of Northeastern NC Animal Shelter is hereby assessed a civil penalty for the following violations:

\$500.00 for the violation of 02 NCAC 52J .0210(d) for failure to provide adequate and timely veterinary care to the cat named Crystal on September 16, 2022; and

\$500.00 for the violation of 02 NCAC 52J .0210(d) for failure to provide adequate and timely veterinary care to the kitten prior to October 12, 2022.

\$1,000.00 TOTAL AMOUNT ASSESSED

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

January 19, 2023  
Date

Patricia Norris DVM, MS  
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. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

#### **§ 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.*