



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

December 4, 2023

PetSuites of America, LLC
1 Baxter Way, Suite 200
Westlake Village, CA 91362
ATTN: Sommer Nelson
Business Licensing Specialist
and via email
Sommer.Nelson@nva.com

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTION .0102(4) and NOTICE of WARNING for VIOLATION of 02 NCAC 52J .0210(d).

AWS-CP-2023-24

Facility: PetSuites of Greensboro
License Number: 11045

Dear Ms. Nelson:

Pursuant to NCGS § 19A-40, I am issuing this notice that you as owner and operator of PetSuites Greensboro ("the kennel") is hereby assessed a civil penalty of \$200.00 as provided in the enclosed Notice of Violation.

With regard to the civil penalty, within 60 days from the date of this letter, 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, appearing to read "Patricia Norris, DVM, MS". The signature is written in a cursive style with a horizontal line through the middle.

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 GUILFORD

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

IN THE MATTER OF)	NOTICE of VIOLATION and
)	ASSESSMENT of CIVIL PENALTY
PETSUITES OF AMERICA, LLC)	for VIOLATION of TITLE 02 NC
)	ADMINISTRATIVE CODE (“NCAC”)
OWNER OF)	CHAPTER 52J SECTION .0102(4) and
)	NOTICE of WARNING for VIOLATION
PETSUITES GREENSBORO)	of 02 NCAC 52J .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, PetSuites Greensboro (“the kennel”) owned and operated by PetSuites of America, LLC was a boarding kennel, registered pursuant to NCGS § 19A-28.
2. On October 10, 2023, AWS received a complaint alleging the kennel failed to provide veterinary care and failed to properly document the administration of medication to the complainant’s dogs boarding at the kennel. 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. As part of the complaint investigation, AWS Animal Health Technician, Christie Shore (“Inspector Shore”) conducted an unannounced site visit of the kennel on October 16, 2023. The findings for the site visit included:
 - a. the kennel had records for the administration of one type of eye medication, cyclosporine, to Phat Daddy, one of the complainant’s dogs that boarded at the kennel from September 27, 2023 until September 30, 2023;
 - b. a review of the medication administration records showed significant discrepancies between the handwritten records and the computerized records for the kennel;
 - c. conversations with the Market Leader for PetSuites, LLC, who does not work at the kennel revealed that, after Phat Daddy was released to his owner, the Market Leader altered the computer records, inadvertently deleting some of the medication administration records and re-entered the information inaccurately in violation of 02 NCAC 52J .0102(4);
 - d. a review of the medical records for Phat Daddy showed that he only had 1 eye as the other eye had been removed due to a chronic medical condition. The medical records provided by the dog’s owner show that this dog was to receive ophthalmic cyclosporine twice daily continuously due to dry eye. The medical records also show that tobramycin eye drops were also prescribed on August 19, 2023 for a corneal ulcer with the instructions for the

- medication to be continued until the dog was rechecked. The tobramycin eye drop prescription was refilled on September 15, 2023 with no indication that a recheck examination had occurred;
- e. kennel records show that Phat Daddy's owner gave the kennel the cyclosporine eye drops to administer to his eye. The kennel records also show that the kennel staff noted Phat Daddy started squinting his eye on September 28, 2023. The kennel stated they called and left a voicemail and texted the owner twice on September 28, 2023. Although the owner visited the dogs on September 29, 2023 to give oral medication to her dogs as requested by the kennel in the second of the 2 texts, she was unable to view Phat Daddy's eye due to a medical condition. She stated in her complaint that at the time of her visit, she was unaware there was a concern about her dog's eye. During the September 29, 2023 visit, she and the kennel staff did not discuss their concerns about Phat Daddy's eye and no request was made for the owner or the kennel to seek veterinary care to address his eye discomfort. Therefore, no veterinary care was sought even though the squinting continued through the release of the dog to the owner on September 30, 2023;
 - f. Phat Daddy was taken to a veterinarian for an ophthalmic examination on October 4, 2023 and a corneal ulcer was diagnosed. AWS was unable to determine from the medical records when the eye condition progressed to a corneal ulcer.

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 kennel violated the following provision:

02 NCAC 52J .0102(4) for failing to create or update records accurately at the time of medication administration as noted in the altering of the medication administration records for Phat Daddy's boarding visit from September 27 – 20, 2023; and

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care to Phat Daddy during his boarding visit from September 27 – 20, 2023

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, PetSuites of America, LLC as owner and operator of PetSuites Greensboro is hereby assessed a civil penalty for the following violations:

\$200.00 for violation of 02 NCAC 52J .0102(4) for failing to create or update records accurately at the time of medication administration as noted in the altering of the medication administration records for Phat Daddy's boarding visit from September 27 – 20, 2023

\$200.00 TOTAL AMOUNT ASSESSED

NOTICE OF WARNING

As to the remaining violation of 02 NCAC 52J .0210(d), this Warning Letter serves as written notice indicating in which respects the kennel additionally violated the NC Animal Welfare Act and the rules issued pursuant thereto. Given that Phat Daddy only had 1 eye and this eye required life-long administration of medication, this special medical need made veterinary care of his remaining eye to be extraordinarily important. Once the kennel did not receive an immediate response from the dog's owner, they should have sought veterinary care or at least had a discussion with the owner when she visited the kennel to make a definitive decision concerning the provision of veterinary care for this dog.

Therefore, AWS strongly recommends that the facility owner immediately develops and implements a protocol for the provision of adequate veterinary care when a boarding animal has special needs or is in a precarious health condition and the owner of the animal cannot be reached in a timely manner. Please submit this protocol to AWS for review within 30 days of the date of this Notice of Warning.

The facility owner is directed to immediately comply with the AWA and its associated rules.

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 license 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)

December 4, 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-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.

§ 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 .0102 RECORDS; BOARDING KENNELS

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

- (4) all records shall be created and/or updated at the time of the occurrence such as intake, medication or treatment administration and/or release. The record shall be accurate; creation of a misleading record or deliberate or non-incidentals falsification of a record including medication administration 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; Readopted Eff. September 1, 2022.

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.