



**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

August 19, 2024

Bryan Miller  
Duplin County Manager  
224 Seminary St,  
Kenansville, NC 28349

**NOTICE of CIVIL PENALTY and NOTICE of WARNING**

**Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0209(6); and .0210(d) and (h); and NOTICE of WARNING for VIOLATIONS of 02 NCAC 52J .0203(e); and .0210(a)(3).**

**AWS-CP-2024-15**

**Facility: Duplin County Animal Services Animal Shelter  
Registration Number 450**

Dear County Manager Miller:

Pursuant to NCGS § 19A-40, I am issuing this notice that Duplin County as the operator of the Duplin 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 DUPLIN

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

IN THE MATTER OF )  
DUPLIN COUNTY )  
OPERATOR of )  
DUPLIN COUNTY )  
ANIMAL SERVICES )  
ANIMAL SHELTER )  
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NOTICE of VIOLATION and  
ASSESSMENT of CIVIL PENALTY  
for VIOLATIONS of TITLE 02 NC  
ADMINISTRATIVE CODE (“NCAC”)  
CHAPTER 52J SECTIONS .0209(6) and .0210(d)  
and (h); and NOTICE of WARNING for  
VIOLATIONS of 02 NCAC 52J .0203(e); and  
.0210(a)(3).

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 Duplin County Animal Services Animal Shelter (“the shelter”), operated by Duplin County, was an animal shelter registered pursuant to NCGS §19A-26.
2. On July 17, 2024, AWS received a complaint alleging the shelter was not vaccinating animals within 14 days of intake, that a dog was not provided veterinary care, and that shade was not provided in the outdoor areas. 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 July 18, 2024, AWS Animal Health Technician Tolley (“Inspector Tolley”) conducted the site visit portion of the investigation. The site visit revealed the following:
  - a. in violation of 02 NCAC 52J .0203(e) no shade was present in the outdoor exercise areas. During the April 1, 2024, Facility Compliance Inspection (“FCI”) the Shelter Director informed Inspector Tolley that the shade cloths were being installed later that day. As of the July 18, 2024 site visit, the shade cloths were not installed and a review of the purchase documents showed that the shade cloths were not ordered until June 18, 2024 with a delivery date expected to be 8-10 weeks from the order date. Shelter staff relayed that the exercise areas had been used prior to the July 18, 2024 site visit but would now not be used until the shade cloths were installed;
  - b. in violation of 02 NCAC 52J .0209(6), kittens exhibiting signs of a communicable disease were housed in 4 kennels in the general population housing area;
  - c. a review of the shelter’s written Program of Veterinary Care (“PVC”) showed that it stated that the shelter would vaccinate animals at the time of intake for rabies (if age appropriate), DHPP and Bordetella for dogs, and FVRCP for cats. A review of the shelter’s medical records showed that 17 animals did not receive rabies vaccinations at the time of intake. The failure to implement and follow a shelter’s written PVC violated 02 NCAC 52J .0210(a)(3);

- d. in violation of 02 NCAC 52J .0210(h), a review of the shelter's records showed that cats Hamza (A0056104385) and Katniss (A0056159721) did not receive a rabies vaccination within 14 days from intake. Hamza was impounded on June 10, 2024 and had not received a rabies vaccination by the time of the site visit on July 18, 2024. Inspector Tolley directed the Shelter Director to administer the rabies vaccination to Hamza;
  - e. the complaint alleged that the dog named Flash (A0055940477) did not receive a rabies vaccination within 14 days of intake. A review of the medical records for Flash showed that this dog came in with a severe neck wound. The shelter decided to delay the administration of the rabies vaccination pending the veterinary consultation and treatment outcome for the dog. The shelter did not document their reason for the delayed administration or the veterinarian's recommendation concerning the delay of the administration of the rabies vaccination; and
  - f. in violation of 02 NCAC 52J .0210(d) that requires the daily observation of the animals at the shelter, the shelter failed to observe a significantly large-sized lesion on the left rear leg of the dog named Aphrodite (A005608897). The dog was impounded on June 7, 2024. She was not vaccinated until June 12, 2024, contrary to the shelter's written PVC in violation of 02 NCAC 52J .0210(a)(3). The large lesion was not noted during the animal's stay at the shelter but was noted by the rescue personnel at the time of transfer on July 10, 2024, after the transfer paperwork was completed. The shelter texted a photo to a veterinarian for a consultation and the veterinarian advised them to start the dog on Cephalexin (an antibiotic).
4. On July 24, 2024, on a follow-up site visit to the shelter, Inspector Tolley noted the following:
- a. 5 kittens [Houdini (A05622856), Jack (A0056228186), Joker (A0056228141), Diamond (A0056228155), and Alice (A0056303030)] were exhibiting signs of a communicable disease but were being housed in the general holding area in violation of 02 NCAC 52J .0209(6). The Shelter Director stated he could not move these sick kittens into the isolation area because 2-3 groups of kittens that were not sick were being housed in isolation; and
  - b. in violation of 02 NCAC 52J .0210(h), Hamza (A0056104385) had still not received a rabies vaccination by the time of follow-up site visit on July 24, 2024. During the July 18, 2024 site visit, Inspector Tolley informed the Shelter Director that Hamza was overdue in receiving the rabies vaccination, yet the cat remained unvaccinated 6 days later.

## 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 the following provisions:

02 NCAC 52J .0203(e) for failure to provide adequate protection from the sun as discovered on July 18, 2024

02 NCAC 52J .0209(6) for failure to separate animals with communicable diseases in order to minimize dissemination of such disease as observed on July 24, 2024

02 NCAC 52J .0210(a)(3) for failure to implement and follow the shelter's written Program of Veterinary Care as noted on July 18, 2024

02 NCAC 52J .0210(d) for failing to observe the animals daily as evidenced by the failure to observe the lesion on Aphrodite (A005608897) that required veterinary care before July 10, 2024

02 NCAC 52J .0210(h) for failure to provide rabies vaccinations to the cats named Hamza (A0056104385) and Katniss (A0056159721) as noted on July 18, 2024

02 NCAC 52J .0210(h) for failure to provide rabies vaccinations to the cat named Hamza (A0056104385) as noted on July 24, 2024 despite being directed to do so by the AWS Inspector

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, Duplin County as the operator of the Duplin County Animal Services Animal Shelter is hereby assessed a civil penalty for the following violations:

\$200.00 for violation of 02 NCAC 52J .0209(6) for failure to separate animals with communicable diseases in order to minimize dissemination of such disease as observed on July 24, 2024

\$200.00 for violation of 02 NCAC 52J .0210(d) for failure to provide daily observation of the dog named Aphrodite (A005608897) that required veterinary care before July 10, 2024

\$600.00 for 3 violations (\$200.00 per violation) of 02 NCAC 52J .0210(h) for failure to administer rabies vaccination within 14 days of intake for 2 cats, Hamza (A0056104385) and Katniss (A0056159721), by July 18, 2024 and to the same cat, Hamza by July 24, 2024 after being directed to do so on July 18, 2024

**\$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.

## **NOTICE of WARNING**

As to the remaining violations of 02 NCAC 52J .0203(e); and .0210(a)(3), 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.

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)

*August 19, 2024*



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Date

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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 .0203 OUTDOOR FACILITIES**

(e) Dogs and cats in outdoor areas shall be provided adequate protection from inclement weather and the Sun. This protection shall be sufficient to protect all animals simultaneously in the exercise area. If an animal cannot maintain its normal body temperature in an outdoor exercise area, the animal shall not be placed in an outside exercise area.

*History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; 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

(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.

(h) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. This subsection shall not apply to animals which have been in the facility less than 15 days.

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