



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 11, 2023

George Wood  
Interim Duplin County Manager  
224 Seminary St,  
Kenansville, NC 28349  
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 .0210(d) and (g) and NOTICE OF WARNING for VIOLATION of 02 NCAC 52J .0101(5) and (6); and .0103.**

**AWS-CP-2023-19**

**Facility: Duplin County Animal Services Animal Shelter  
Registration Number 41**

Dear County Manager Wood:

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 \$350.00 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, appearing to read "Patricia Norris DVM, MS". The signature is fluid and cursive, with the initials "DVM, MS" written in a more blocky, capital style at the end.

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	)	NOTICE of VIOLATION and
DUPLIN COUNTY	)	ASSESSMENT of CIVIL PENALTY
OPERATOR of	)	for VIOLATIONS of TITLE 02 NC
DUPLIN COUNTY	)	ADMINISTRATIVE CODE (“NCAC”)
ANIMAL SERVICES	)	CHAPTER 52J SECTIONS .0210(d) and (g) and
ANIMAL SHELTER	)	NOTICE of WARNING for VIOLATIONS of
	)	02 NCAC 52J .0101(5) and (6); and .0103.
	)	

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 September 1, 2023, AWS received a complaint concerning the shelter’s medical records for a dog named Gigi that was adopted 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 September 6, 2023, AWS Outreach Coordinator Joe Blomquist (“Coordinator Blomquist” and AWS Animal Health Technician Christina Tolley (“Inspector Tolley”) conducted the site visit portion of the investigation. The site visit revealed the following:
  - a. a review of the shelter records for the dog named Gigi (shelter ID# A0053730801) showed that the only recorded heartworm test, which was conducted on July 27, 2023, showed the result to be negative for heartworms;
  - b. a conversation with the shelter staff revealed that a second heartworm test was conducted, and that test showed Gigi to be positive for heartworms. The performance and results of the second heartworm test were not documented in Gigi’s shelter medical record in violation of 02 NCAC 52J .0101(5);
  - c. a review of the shelter’s medical records showed that entries were made into this record on August 28, 2023 which is more than 48 hours after Gigi was adopted on August 25, 2023 in violation of 02 NCAC 52J .0101(6);
  - d. a review of an entry made to Gigi’s shelter medical record showed an examination by shelter staff at 4:40 PM on August 28, 2023 in which Gigi’s condition was noted as “Appears Normal.” As Gigi had been adopted on August 25, 2023 and was not present at the shelter on August 28, 2023, this entry is inaccurate in violation of 02 NCAC 52J .0101(6)
  - e. the shelter was unable to provide the documentation of the daily medication administration for

- the administration of doxycycline to Gigi upon request during the complaint investigation in violation of 02 NCAC 52J .0103;
- f. the shelter staff revealed that the veterinarian's orders, written on a sticky note, for the administration of doxycycline to Gigi did not match the dosage of doxycycline documented in the computer record for Gigi. Failure to administer the dosage of a medication prescribed by a veterinarian is a violation of 02 NCAC 52J .0210(d) which requires animals to be provided with adequate veterinary care in a timely manner;
  - g. on August 31, 2023, Gigi was examined by her attending veterinarian and found to be suffering from a significant ear infection which based on the clinical findings appeared to be a chronic infection. The shelter failed to note this infection during its examinations of Gigi and failed to obtain veterinary care for this infection while Gigi was in the care and custody of the shelter in violation of 02 NCAC 52J .0210(d); and
  - h. a review of the documentation provided to the adopter showed that the shelter failed to provide full written disclosure of the medical condition of Gigi and all the veterinary medical treatments provided to Gigi by the shelter in violation of 02 NCAC 52J .0210(g).

## 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 02 NCAC 52J .0101(5) and (6); .0103; and .0210(d) and (g).

AWS concludes that the shelter violated the following provisions:

02 NCAC 52J .0101(5) for failure to properly document the provision of veterinary care for Gigi as noted on September 6, 2023

02 NCAC 52J .0101(6) for failure to create records within 48 hours of the administration of medication to Gigi as noted on September 6, 2023

02 NCAC 52J .0101(6) for having inaccurate medical records for Gigi as noted on September 6, 2023

02 NCAC 52J .0103 for failure to provide the required records for Gigi upon request during an investigation on September 6, 2023

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to Gigi for the significant ear infection as noted on September 6, 2023

02 NCAC 52J .0210(g) for failure to provide full written disclosure to the adopter of the medical condition of Gigi and all the veterinary medical treatments provided to Gigi by the shelter

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:

\$250.00 for violation of 02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to Gigi for the significant ear infection as noted on September 6, 2023; and

\$100.00 for violation of 02 NCAC 52J .0210(g) for failure to provide full written disclosure of the medical condition of Gigi and all the veterinary medical treatments provided to Gigi by the shelter

**\$350.00 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 .0101(5), and (6); and .0103, 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. AWS recognizes that between the time Gigi was adopted and the site visit for the complaint investigation, the shelter had made significant changes to their protocol for documentation of medication administration.

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 11, 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.

#### **§ 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:

- (5) record of veterinary care including medications, treatments, procedures, and immunizations. The record shall include: diagnosis(es), diagnostic testing and results, date and time of administration or procedure, description of medication and initials of person administering any product, medication or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include the number of dosages or days to be given and the reason for the administration; and
- (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 .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.

(g) Full written disclosure of the medical condition of the animal and all veterinary medical treatments provided to the animal shall be provided to the person or organization receiving, adopting, purchasing or otherwise acquiring the animal. Proof of written disclosure signed by the person or organization receiving the animal shall be maintained as part of the animal's record.

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