



**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

March 11, 2024

Carol Parker  
President  
Foothills Humane Society, Inc.  
989 Little Mountain Road  
Columbus, NC 28722  
and 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(i)(1) and (3); and NOTICE OF WARNING for VIOLATION of 02 NCAC 52J .0210(k).**

**AWS-CP-2024-5**

**Facility: Foothills Humane Society Inc. Animal Shelter  
Registration Number 8**

Dear Ms. Parker:

Pursuant to NCGS § 19A-40, I am issuing this notice that Foothills Humane Society, Inc. as the operator of the Foothills Humane Society, Inc. Animal Shelter (“the shelter”) is hereby assessed a civil penalty of \$18,000.00 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 black ink, appearing to read "Patricia Norris DVM, MS". The signature is fluid and cursive, with the initials "DVM, MS" written in a more formal, blocky 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 POLK

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

IN THE MATTER of	)	NOTICE of VIOLATION and
FOOTHILLS HUMANE SOCIETY	)	ASSESSMENT of CIVIL PENALTY
INC.	)	for VIOLATIONS of TITLE 02 NC
OWNER of	)	ADMINISTRATIVE CODE (“NCAC”)
FOOTHILLS HUMANE SOCIETY	)	CHAPTER 52J SECTIONS .0210(i)(1) and (3);
ANIMAL SHELTER	)	and NOTICE of WARNING for VIOLATION of 02
	)	NCAC 52J .0210(k).
	)	

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 Foothills Humane Society, Inc. Animal Shelter (“the shelter”), operated by Foothills Humane Society, Inc. was an animal shelter registered pursuant to NCGS §19A-26.
2. On January 26, 2024, AWS received a complaint alleging improper administration of clomipramine to the shelter animals, inadequate veterinary care for a dog named Jasper, anesthetic deaths of 2 kittens, the adoption of an unaltered dog without a rabies vaccination and that the veterinarian of record was no longer associated with the shelter.
3. On February 9, 2024, AWS Animal Health Technician Joshua James (“Inspector James”) conducted the site visit portion of the investigation. The site visit revealed the following:
  - a. all of the incidents contained in the complaint occurred during the tenure of the previous Executive Director (“previous Ex. Dir.”);
  - b. the previous Ex. Dir. ordered, brought the clomipramine into the shelter, and gave it to the shelter’s veterinary assistant to administer to the shelter animals. The shelter veterinarian confirmed that he had provided the shelter with a standing prescription order for the administration of this medication for the shelter animals;
  - c. the medical records for Jasper revealed that this dog received multiple veterinary examinations by 3 veterinarians in the past 14 months. The dog was eventually diagnosed with chronic pancreatitis and is responding to the current veterinary prescribed treatment regime;
  - d. the complainant did not provide sufficient information concerning the dog adopted unaltered by the shelter to be able to identify the dog. Neutering of a shelter animal prior to adoption is not a requirement of the NC AWA or its rules. The AWA and its rules do not require rabies vaccinations to be administered if the animal is not old enough or has not been housed at the shelter for more than 14 days;
  - e. the kittens noted in the complaint were examined, anesthetized, and neutered by a NC licensed veterinarian. The veterinarian was present during the post-op period when the kittens died.

- No violation of the AWA or its rules were substantiated in the care of these kittens; and
- f. a NC licensed veterinarian confirmed that they are still working with the shelter;

4. During this complaint investigation, Inspector James was informed of a cat neutering clinic that occurred at the shelter on November 12, 2023. The following information relevant to this event included:

- a. the minutes from the September 19, 2023 Board of Directors meeting revealed that the previous Ex. Dir. informed the Board that arrangements were underway to have veterinarians from NJ travel to the shelter to neuter and spay approximately 100 cats owned by the public;
- b. October 7-9, 2023 flyers to be distributed to the public were developed that advertised and encouraged the public to sign up to bring their cats to the neutering clinic;
- c. the minutes from the October 24, 2023 Board of Directors meeting show that the previous Ex. Dir. reiterated that the neutering clinic for publicly-owned animals would happen as soon as the shelter's surgical suite passed the inspection by the AWS Inspector. The Ex. Dir. repeated that the veterinarians from NJ would be doing the neutering surgeries;
- d. on October 27, 2023, the surgical suite at the shelter was inspected and did not pass as it was not in full compliance with the AWA rules. During this inspection, the previous Ex. Dir. and shelter staff was informed that the surgical suite could only be used for surgical procedures on shelter owned animals;
- e. on November 6, 2023, the surgical suite at the shelter was inspected and approved for surgeries on shelter-owned animals by a NC licensed veterinarian only. All parts of 02 NCAC 52J .0210(i) were discussed in detail with the previous Ex. Dir. and the veterinary assistant. The restrictions of surgery to only be performed on shelter-owned animals and by NC licensed veterinarians was repeated several times during this discussion. At no point, did the previous Ex. Dir. mention the plans to hold a neutering clinic for publicly owned animals to the AWS Inspector;
- f. on November 9, 2023, the shelter posted a notice on social media advertising the neutering clinic and soliciting the public to make appointments by responding directly to the previous Ex. Dir.'s email address;
- g. on November 12, 2023, the shelter held the neuter clinic and neutered 87 male cats owned by the public. The clinic was staffed by the shelter staff, volunteers from, 2 NC licensed veterinarians, and volunteers from the Foothills Humane Society, the Animal Welfare Association of New Jersey ("AWANJ") and an animal rescue based in SC.
- h. statements from the NC licensed veterinarians revealed that they agreed to help but were not expecting to do the surgeries. They were only informed that they were to do the surgeries when they arrived at the start of the clinic. One of the NC licensed veterinarians performed 84 of the 87 neuter surgeries while the other one oversaw the post-operative recovery of the cats.
- i. the staff veterinarian for AWANJ administered the anesthetic medications to all 87 cats. According to several statements from the NC veterinarians and shelter staff, the NJ veterinarian performed the neuter surgeries on several cats while the NC licensed veterinarian was performing the 2 cryptorchid neuter surgeries. The anesthetic protocol used during the surgeries was one that was not familiar to the NC licensed veterinarian but was the regime preferred by the NJ veterinarian. Therefore, the NJ veterinarian calculated and administered the dosage for the drug combination for all 87 cats;

5. Interviews with staff members of AWANJ were conducted and the following information was relayed to Inspector James or AWS Director Norris:
  - a. the AWANJ Senior Shelter Services Manager denied that a AWANJ veterinarian participated in the November 12, 2023 neuter clinic;
  - b. the AWANJ Senior Shelter Services Manager stated that all surgeries were performed by the NC licensed veterinarians. She did not speak to the anesthetizing of the cats;
  - c. the AWANJ staff veterinarian admitted to being present at the neuter clinic. She stated that she did anesthetize the 87 cats but stated that she did not perform any of the neuter surgeries. She stated she is licensed in NJ to practice veterinary medicine but did not hold a veterinary license in NC when she anesthetized the 87 cats. She was given multiple opportunities during the interview to correct her denial relative to the performance of the surgeries but declined to do so;
  
6. A review of relevant documentation showed that:
  - a. the NC Veterinary Medical Board (“NCVMB”) confirmed that there was no record of the AWANJ veterinarian ever received any type of veterinary license issued by the NCVMB which would have allowed her to practice veterinary medicine in NC on publicly owned animals
  - b. the NC Veterinary Practice Act, NCGS § 90-187.12 notes that should any person practice or attempt to practice veterinary medicine in this State without first having obtained a license or temporary permit from the NCVMB shall be guilty of a Class 1 misdemeanor and each act of such unlawful practice shall constitute a distinct and separate offense;
  - c. review of photographs taken during the neuter clinic showed the NJ veterinarian and her husband participating in the clinic;
  - d. a review of the medical records for the neuter clinic showed that the records for 5 cats were missing;
  - e. a review of the medical records for 3 of the 87 cats documented the NJ veterinarian signed the medical record as the veterinarian that neutered these 3 cats;

## 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 .0210(i)(1) and (3) and .0210(k). AWS concludes that the shelter violated the following provisions:

02 NCAC 52J .0210(i)(1) for performing surgery on 87 animals that were not owned by the shelter on November 12, 2023

02 NCAC 52J .0210(i)(3) for failure to ensure that all surgical procedures were performed by a NC licensed veterinarian for 3 of the surgeries performed on November 12, 2023

02 NCAC 52J .0210(k) for facilitating the practice of veterinary medicine at the shelter beyond what is otherwise authorized by the NCVMB pursuant to the NC Veterinary Practice Act by holding a neuter clinic in which a veterinarian not licensed to practice veterinary medicine in NC anesthetized 87 cats and neutered 3 of those cats

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, Foothills Humane Society, Inc. as the operator of the Foothills Humane Society Animal Shelter is hereby assessed a civil penalty for the following violations:

\$17,400.00 for 87 violations (\$200.00 per violation) of 02 NCAC 52J .0210(i)(1) for performing surgery on 87 animals that were not owned by the shelter on November 12, 2023

\$600.00 for 3 violations (\$200.00 per violation) of 02 NCAC 52J .0210(i)(3) for failure to ensure that all surgical procedures were performed by a NC licensed veterinarian for 3 of the surgeries performed on November 12, 2023

**\$18,000.00 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 violation of 02 NCAC 52J .0210(k), 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.

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)

March 11, 2024  
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 .0210 VETERINARY CARE**

- (i) If surgical procedures are performed at the registered/licensed facility, the facility shall:
- (1) only perform surgical procedures on animals owned by the facility. The facility shall not perform surgery on animals owned by the public unless the practice of veterinary medicine at that facility falls under the jurisdiction of the North Carolina Board of Veterinary Medicine;
  - (3) ensure all surgical procedures are performed by a NC licensed veterinarian and performed within the designated surgical area;
- (k) Nothing in these rules allows the practice of veterinary medicine in North Carolina beyond what is otherwise authorized by the NC Veterinary Medical Board pursuant to the NC Veterinary Practice Act.

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