



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 5, 2024

Kim Denton
Franklin County Manager
113 Market Street
Louisburg, NC 27549
via email
kdenton@franklincounty.nc.gov
wdoerfer@franklincountync.gov

NOTICE of CIVIL PENALTY and NOTICE of WARNING

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of NC GENERAL STATUTE (“NCGS”) § 19A-32.1(a) and NOTICE of WARNING FOR VIOLATIONS OF 02 NC ADMINISTRATIVE CODE (“NCAC”) CHAPTER 52J SECTIONS .0101(6), and .0210(a)(3) and (d).

AWS-CP-2024-14

**Facility: Franklin County Animal Shelter
Registration Number 1**

Dear County Manager Denton:

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

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

IN THE MATTER of)	NOTICE of VIOLATION and
FRANKLIN COUNTY.)	ASSESSMENT of CIVIL PENALTY
OPERATOR of)	for VIOLATIONS of NC GENERAL
FRANKLIN COUNTY)	STATUTE (“NCGS”) § 19A-32.1(a) and 02
ANIMAL SHELTER)	NC ADMINISTRATIVE CODE CHAPER 52J
)	SECTIONS .0101(6); and .0210(a)(3) and (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 Franklin County Animal Shelter (“the shelter”), operated by Franklin County was an animal shelter registered pursuant to NCGS §19A-26.
2. On June 27, 2024, AWS received a complaint concerning the handling of cats by shelter staff during the euthanasia process and the euthanasia of a dog named Layla. 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 several dates in July 2024, AWS Director Norris and AWS Animal Health Technician Sexton (“Inspector Sexton”) interviewed separately or together the complainant, the Shelter Director, 2 Animal Control Officers, and 2 other shelter CETs. In addition, on July 7, 2024, Director Norris and Inspector Sexton reviewed relevant shelter documentation. From these interviews and document review, the following information was obtained:
 - a. the complainant and one of the ACOs alleged that cats were mishandled by the shelter staff during the euthanasia process;
 - b. the remaining ACO and shelter staff either denied that any mishandling occurred or denied any knowledge of the mishandling or the complaint of mishandling of cats;
 - c. no other evidence of mishandling to either corroborate or dispute this allegation could be identified;
4. Pertaining to the euthanasia of the dog named Layla, the following information was obtained;
 - a. the dog named Layla (ID#A0055981462) was impounded as a stray on Thursday, May 23, 2024;
 - b. upon intake, the dog was noted to have scabbed wounds on her back;
 - c. the shelter staff requested a veterinary consultation on May 23, 2024 at 11:18 AM. The text message to the veterinary clinic included a photograph showing the scabbed wounds;
 - d. on Friday, May 24, 2024 at 11:44 AM the veterinary clinic responded to the consultation request. The response from the veterinary clinic asked if the shelter could clip and clean the

- wounds and start the dog on Cephalexin. The response from the shelter sent at 12:07 PM stated “Ok. We have her posted for emergency rescue;”
- e. shelter staff relayed that they had posted an emergency rescue request to the rescues to see if any rescue would accept the dog. No rescue responded;
 - f. the review of the shelter medical records for Layla did not show any veterinary care including first aid or medications were provided to Layla which violated the shelter’s written program of veterinary care stating that “if the injuries are not severe, the animal will be kept comfortable for at least 24 hours and the animal may be transported to a veterinarian for emergency care.” Failure to implement and follow the shelter’s written program of veterinary care (“PVC”) violated 02 NCAC 52J .0210(a)(3);
 - g. when asked about the failure to provide adequate veterinary care to Layla, which was in violation of 02 NCAC 52J .0210(d), the Shelter Director and the 3 shelter CETs all stated that Layla did not appear to be in pain, therefore, no veterinary care including pain medications were provided;
 - h. shelter staff said that they did have Cephalexin on hand, had administered this medication to other animals and could have complied with the veterinary recommendations;
 - i. the Shelter Director stated she authorized the euthanasia of Layla prior to the end of the 72-hour minimum hold required by NCGS § 19A-32.1(a) because “adequate care was not available.” In violation of 02 NCAC 52J .0102(6), the notation on Layla’s shelter record that “adequate care was not available” was not accurate as the shelter had the resources to provide first aid to the wounds and to administer the Cephalexin as recommended by the veterinarian;
 - j. the previous Lead Animal Care Technician (1 of the interviewed CETs) for the shelter relayed that she discussed this dog with the Shelter Director shortly after the dog was impounded. She was directed by the Shelter Director to post an emergency rescue request and, since it was the holiday weekend, if no rescue came forward, then to euthanize the dog at the end of the day on Friday, May 24, 2024. The Lead Animal Care Technician said that maybe the wounds might have been getting more infected (no antibiotics or wound care had been provided to the dog) but also said there was no additional evaluation of the dog prior to her bringing the dog to the euthanasia area. She stated she authorized the euthanasia of Layla because it was the Friday before the holiday weekend and that that this was the plan previously discussed with the Shelter Director; and
 - k. the Lead Animal Care Technician stated that it was common practice for her to authorize the euthanasia of animals, but that the euthanasias were always previously approved by the Shelter Director.

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. AWS concludes that the shelter violated the following provisions:

NCGS § 19A-32.1(a) for failure to hold the dog named Layla (for a minimum holding period of 72 hours when the exemption allowed in NCGS § 19A-32.1(b)(2) did not apply, as according to all shelter staff that viewed the dog, the dog was not significantly injured as it was “not in pain” according to their assessments

02 NCAC 52J .0101(6) for failure to maintain an accurate record on May 24, 2024 for the justification of the euthanasia of Layla prior to the 72-hour minimum hold as the shelter did have adequate resources available to treat this dog and allow the dog to complete the minimum hold period

02 NCAC 52J .0210(a)(3) for failure to implement and follow the shelter's written PVC on May 23-24, 2024 when the shelter failed to keep Layla comfortable or transport her to a veterinarian for care

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care to Layla on May 23-24, 2024

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

\$1,000.00 for violation of NCGS § 19A-32.1(a) for failure to hold the dog named Layla (ID#A0055981462) for a minimum holding period of 72 hours on May 24, 2024 when the exemption allowed in NCGS § 19A-32.1(b)(2) did not apply, as according to all shelter staff that viewed the dog, the dog was not seriously injured as it was "not in pain" according to their assessments

\$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 .0101(6); and .0210(a)(3) and (d), 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 does acknowledge the receipt of the request from Franklin County for a Facility Program review targeting the shelter's veterinary care protocols and the euthanasia protocols in order to correct these violations as well as to address the allegations in the initial complaint concerning the handling of animals during the euthanasia process. AWS agrees to provide this Facility Program review.

Notwithstanding the initiation of the Facility Program review, 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 5, 2024

Date



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-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

- (a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.
- (b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:
 - (1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.
 - (2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.
 - (3) The animal is being held as evidence in a pending criminal case.

§ 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:

- (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-incident 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 .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.

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