



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

January 11, 2023

Carmen Peterson
Owner
Puppy Luv Rescue Support, Inc.
133 Reep Road
Kings Mountain, NC 28086

NOTICE of WARNING

Re: Violation of Title 02 N.C. Administrative Code (“NCAC”) Chapter 52J, Section .0209(7)

AWS-WL-2023-1

Boarding Kennel: Puppy Luv, Rescue Support Inc. Boarding Kennel
License Number: 20629

Dear Ms. Peterson:

On November 17, 2022, the Animal Welfare Section (“AWS”) of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services (“NCDA&CS”) received a complaint concerning the conditions and the care of the animals at Puppy Luv Rescue Support, Inc. boarding kennel (the “kennel”). AWS initiated an investigation based on the information contained in the complaint. 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.

On December 1, 2022, an AWS Animal Health Technician conducted an unannounced site visit as part of the complaint investigation. The December 1, 2022, site visit noted the following:

- 1) in discussions with the staff of the kennel, the staff relayed that the long-term care animals do not necessarily get access to an area outside of their primary enclosure daily in violation of 02 NCAC 52J .0209(7) which requires that animals in long term care to be provided with human interaction other than interaction for enclosure cleaning, same species social interaction, opportunity for play and exercise and environmental enrichment daily.

Based on the findings of this complaint investigation, the kennel appears to have violated 02 NCAC 52J .0209(7).

This Warning Letter serves as written notice indicating in which respects the kennel has violated the N.C. Animal Welfare Act ("AWA") and the rules issued pursuant thereto. The facility owners are directed to immediately comply with the AWA and its associated 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 license 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.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Patricia Norris, DVM, MS". The signature is written in a cursive style.

Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

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

Appendix

REFERENCED STATUTES AND REGULATIONS

§ 19A-24. Powers of Board of Agriculture.

(a) The Board of Agriculture shall:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.
- (2) Prescribe the manner in which animals may be transported to and from registered or licensed premises.
- (3) Require licensees and holders of certificates to keep records of the purchase and sale of animals and to identify animals at their establishments.
- (4) Adopt rules to implement this Article, including federal regulations promulgated under Title 7, Chapter 54, of the United States Code.
- (5) Adopt rules on the euthanasia of animals in the possession or custody of any person required to obtain a certificate of registration under this Article. An animal shall only be put to death by a method and delivery of method approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association. The Department shall establish rules for the euthanasia process using any one or combination of methods and standards prescribed by the three aforementioned organizations. The rules shall address the equipment, the process, and the separation of animals, in addition to the animals' age and condition. If the gas method of euthanasia is approved, rules shall require (i) that only commercially compressed carbon monoxide gas is approved for use, and (ii) that the gas must be delivered in a commercially manufactured chamber that allows for the individual separation of animals. Rules shall also mandate training for any person who participates in the euthanasia process.

(b) In addition to rules on the euthanasia of animals adopted pursuant to subdivision (5) of subsection (a) of this section, the Board of Agriculture shall adopt rules for the certification of euthanasia technicians. The rules may provide for:

- (1) Written and practical examinations for persons who perform euthanasia.
- (2) Issuance of certification to persons who have successfully completed both training and examinations to become a euthanasia technician.
- (3) Recertification of euthanasia technicians on a periodic basis.
- (4) Standards and procedures for the approval of persons who conduct training of euthanasia technicians.
- (5) Approval of materials for use in euthanasia technician training.
- (6) Minimum certification criteria for persons seeking to become euthanasia technicians including, but not limited to: age; previous related experience; criminal record; and other qualifications that are related to an applicant's fitness to perform euthanasia.
- (7) Denial, suspension, or revocation of certification of euthanasia technicians who:
 - a. Violate any provision of this Article or rules adopted pursuant to this Article;
 - b. Have been convicted of or entered a plea of guilty or nolo contendere to:
 1. Any felony;
 2. Any misdemeanor or infraction involving animal abuse or neglect; or

3. Any other offense related to animal euthanasia, the duties or responsibilities of a euthanasia technician, or a euthanasia technician's fitness for certification;
 - c. Make any false statement, give false information, or omit material information in connection with an application for certification or for renewal or reinstatement of certification as a euthanasia technician; or
 - d. Otherwise are or become ineligible for certification.
- (8) Provision of the names of persons who perform euthanasia at animal shelters and for the animal shelter to notify the Department when those persons are no longer affiliated, employed, or serving as a volunteer with the shelter.
- (9) Certified euthanasia technicians to notify the Department when they are no longer employed by or are serving as a volunteer at an animal shelter.
- (10) The duties, responsibilities, and standards of conduct for certified euthanasia technicians.

(c) Regardless of the extent to which the Board exercises its authority under subsection (b) of this section, the Department may deny, revoke, or suspend the certification of a euthanasia technician who has been convicted of or entered a plea of guilty or nolo contendere to a felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic.

(d) Persons seeking certification as euthanasia technicians, or a renewal of such certification, shall provide the Department a fingerprint card in a format acceptable to the Department, a form signed by the person consenting to a criminal record check and the use of the person's fingerprints, and such other identifying information as may be required by the State or national data banks. The Department may deny certification to persons who refuse to provide the fingerprint card or consent to the criminal background check. Fees required by the Department of Public Safety for conducting the criminal background check shall be collected by the Department and remitted to the Department of Public Safety along with the fingerprint card and consent form.

§ 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 .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure or confined to an exercise area shall be maintained in compatible groups, with the following additional restrictions:

- (7) Animals in long term care must be provided with human interaction other than interaction for enclosure cleaning, same species social interaction, opportunity for play and exercise, and environmental enrichment daily. The provision of these daily interactions and enrichment shall be adequate for the animal's species, age, size and behavior needs. In addition:
- (a) The provision of the daily social interactions and enrichment shall be documented in the animal's records and the records maintained for three years; and
 - (b) Exemptions from these long-term care provisions are allowed only for safety or health reasons and must be approved by a veterinarian. This exemption must be reviewed and renewed every 30 days if the continuation is necessary. Documentation of the exemption must include the reason for the exemption, the name and contact information of the veterinarian authorizing the exemption, the original exemption date and the dates of review and renewal and alternative(s) offered if any.

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