



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003
awionline.org phone: (202) 337-2332 fax: (202) 446-2131

April 26, 2022

Testimony Before Ohio's Joint Commission on Agency Rule Review (JCARR)
Vicki Deisner, Esq.
State Government Affairs Advisor
Animal Welfare Institute

RE: Animal Welfare Institute's Comments on OAC Rule 901:1-6-05 (F), 901:1-6-05 (N) &
901:1-6-08 (A)

Animal Welfare Institute (AWI) comes before the Joint Commission on Agency Rule Review (JCARR) to testify to the fact that the Ohio Department of Agriculture's (ODA) current rule OAC 901: 1-6-05 (N), and proposed rules OAC 901:1-6-05 (F) and 901:1-6-08 (A) violate JCARR standards as the rules exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3).

- 1) Current OAC Rule 901: 1-6-05 (N) and proposed OAC Rule 901: 1-6-05 (F) violate JCARR's standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3)

ORC mandates the use of a veterinarian for surgical procedures. ORC Section 956.031 (V), in regard to high-volume commercial dog breeders, states "If a surgical or euthanasia procedure is required, use a veterinarian to perform the procedure."

Existing OAC Rule 901: 1-6-05 (N) and proposed OAC Rule 901: 1-6-05 (F) state "Surgical procedures, except between two to five days of age the removal of the dew claw and tail docking, shall only be done by a licensed veterinarian."

Dew claw removal and tail docking are surgical procedures that cause acute pain in puppies (AVMA Animal Welfare Division studies). Allowing a person to perform these surgical procedures on an animal, regardless of age, without proper pain management and anesthesia would be considered animal cruelty, torture and torment in violation of ORC 959.131-B.

Since the OAC Rule 901 rule package is before JCARR, it must now address the fact that OAC Rule 901: 1-6-05 (F) and OAC Rule 901: 1-6-05 (N) are in violation of JCARR standards (prong 1 and prong 3) as OAC 956.031 (V) clearly states that a veterinarian is to perform all surgical procedures. ODA lacks the authority to enact regulations that allow anyone other than veterinarians to conduct such surgical procedures.

- 2) Proposed OAC Rule 901:1-6-08 (A) violates JCARR's standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3)

ORC mandates that the agency perform criminal background checks of high-volume commercial dog breeders. ORC Section 956.03 states: "(A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(2) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code."

Proposed OAC Rule 901:1-6-08 (A) eliminates that requirement for ODA to perform criminal background checks of the high-volume commercial dog breeders, and transfers the responsibility to the breeders themselves.

As ORC Section 956.03 clearly states, the director of agriculture shall adopt requirements and procedures for conducting background checks to determine if the applicant has been convicted of or pleaded guilty to an offense that would disqualify the applicant. Proposed OAC Rule 901: 1-6-08 (A) is in violation of JCARR standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3). ODA lacks the authority to transfer the responsibility of background checks to the applicant themselves.

AWI strongly urges JCARR to find that the ODA's current rule OAC 901: 1-6-05 (N) and proposed rules 901:1-6-05 (F) and 901:1-6-08 (A) violate JCARR's standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3), and should be invalidated.

Vicki Deisner, Esq.
State Government Affairs Advisor
Animal Welfare Institute
vicki.deisner@gmail.com
614/493-8383

Daniel Gingerich, southern Iowa puppy mill owner, turns himself in
www.kcci.com

Daniel Gingerich now faces criminal charges in Wayne County, months after USDA investigators found dead and malnourished dogs on his property.

James Stratton
Chief Investigative Reporter

WAYNE COUNTY, Iowa —

The owner of a southern Iowa puppy mill who amassed more than 120 violations of the Animal Welfare Act in six months now faces criminal charges in Wayne County.

Daniel Gingerich turned himself in to the Wayne County Sheriff's Office. He now faces six animal neglect charges.

Gingerich, now an Ohio resident, was released on \$1000 cash bond.

USDA investigators found dead and malnourished dogs on his property in rural Seymour, Iowa.

Gingerich, a 26-year-old, now lives in Hillsboro, Ohio, per the criminal court filing. He faces two counts of animal neglect with serious injury or death, an aggravated misdemeanor. He also faces four other counts of animal neglect with injury, a serious misdemeanor.

Court records show the first count of animal neglect with serious injury or death refers to a Golden Retriever investigators found emaciated from April to July 2021, but inspectors never took her from the property. She was eventually euthanized due to her condition. The dog, now the subject of federal legislation to strengthen the Animal Welfare Act, was named Golden Retriever #142 by investigators and "Goldie" by Rep. Cindy Axne who introduced the bill.

The criminal complaint says Gingerich did not provide proper veterinary care to the Golden Retriever.

April 26, 2022

Testimony Before Ohio's Joint Commission on Agency Rule Review (JCARR)

Lilah Foley

Advocacy Assistant

Ohio Animal Advocates

RE: Comments on OAC Rule 901: 1-6-05 (N), 901: 1-6-05 (F) & -08 (A)

I am Lilah Foley, an undergraduate student at the Ohio State University John Glenn College of Public Affairs and an Advocacy Assistant at Ohio Animal Advocates, and I come before the Joint Commission on Agency Rule Review (JCARR) to testify to the fact that the Ohio Department of Agriculture's proposed rules OAC Rules 901: 1-6-05 (N), 901: 1-6-05 (F) and 901: 1-6-08 (A) violate JCARR standards in that the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3).

1. Proposed OAC Rule 901: 1-6-05 (N) and 901: 1-6-05 (F) violate JCARR's standards in that the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3).

Existing OAC Rule 901:1-6-05 (N) and proposed OAC Rule 901: 1-6-05 (F) state that "Surgical procedures, except between two to five days of age the removal of the dew claw and tail docking, shall only be performed by a licensed veterinarian."

However, the Ohio Revised Code mandates the use of a vet for any surgical procedure, as ORC Section 956.031, titled Additional Requirements for High Volume Dog Breeders, states that "If a surgical or euthanasia procedure is required, use a veterinarian to perform the procedure."

Dew claw removal and tail docking are surgical procedures that often require anesthesia. Both are considered to be amputation procedures, as tail docking refers to the practice of amputating a portion of a puppy's tail, and dew claw removal refers to the practice of amputating the nonweight-bearing toe of a puppy. The legislative purpose of ORC Section 956.031 as it was passed was to state that a veterinarian is to perform all surgical procedures. Thus, the Ohio Department of Agriculture does not have authority to enact regulations such as these that allow anyone other than a veterinarian to conduct surgical procedures.

As this rule package is now before JCARR, it must address the fact that OAC Rule 901: 1-6-05 (F) and OAC Rule 901: 1-6-05 (N) are in violation of JCARR standards in that the rules both exceed the rule-making agency's statutory authority and conflict with the intent of the legislature in enacting the statute under which the rule is proposed. At the time of the bill's passage, the agreed upon language of the legislatures and stakeholders involved was that only licensed veterinarians would be allowed to perform surgical procedures.

2. Proposed OAC Rule 901: 1-6-08 (A) violates JCARR's standards in that the rules

both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3).

OAC Rule 901: 1-6-08 (A), as proposed by the Ohio Department of Agriculture, eliminates the requirement for ODA to perform criminal background checks of high-volume commercial dog breeders outlined in the Ohio Revised Code, and transfers the responsibility to the breeders themselves.

Currently, the Ohio Revised Code mandates that the Ohio Department of Agriculture perform criminal background checks of high-volume commercial dog breeders. ORC Section 956.03 states, "The director of agriculture shall adopt rules in accordance with Chapter 119. Of the Revised Code establishing all of the following:

(B) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to any of the violations specified in division (A)(2) of section 956.15 of the Revised Code."

Section 956.03 of the Ohio Revised Code clearly outlines that the director of agriculture shall adopt the requirements and procedures for conducting background checks to determine if the applicant has been convicted of or pleaded guilty to an offense that would disqualify the applicant. The proposed OAC Rule 901: 1-6-08 (A) is in violation of JCARR standards, as the rules both exceed the rule-making agency's statutory authority and conflict with the intent of the legislature in enacting the statute under which the rule is proposed.

I strongly urge JCARR to find that the Ohio Department of Agriculture's current rule OAC 901: 1-6-05 (N) and proposed rules 901: 1-6-05 (F) and 901: 1-6-08 (A) violate JCARR's standards in that the rules both exceed the rule-making agency's statutory authority and conflict with the intent of the legislature in enacting the statute under which the new rule is proposed.

Lilah Foley
Advocacy Assistant
Ohio Animal Advocates

April 26, 2020

Testimony Before Ohio's Joint Commission on Agency Rule Review (JCARR)

Carli Frey, Student

The Ohio State University

The John Glenn College of Public Affairs

RE: Personal Comments on OAC Rule 901:1-6-08 (A)

I personally come before the Joint Commission on Agency Rule Review to testify to the fact that the Ohio Department of Agriculture's proposed rules to OAC 901:1-6-08 (A) violate prong 1 of JCARR standards.

ORC Section 956.03 states: "(A) The director of agriculture shall adopt rules in accordance with Chapter

119. of the Revised Code establishing all of the following:

(2) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code."

Though all criminal background checks are mandated to be executed by the ODA, the proposed OAC

Rule 901:1-6-08 (A), instead shifts the responsibility of performing these checks on the high-volume

commercial dog breeders from the ODA to the dog breeders themselves.

Therefore, the proposed OAC Rule 901: 1-6-08 (A) will violate JCARR standards as the mandate both

exceeds the rule-making agency's statutory authority (prong 1) and conflicts with the intent of the

legislature (prong 3) in enacting the statute under which the rule is proposed (prong 3). ODA lacks the authority to place responsibility on dog breeders to perform any criminal background check themselves.

The Ohio Department of Agriculture does not have the power to undermine Ohio Revised Code to pass these regulations.

We already know that commercial-dog breeders take advantage of loosely worded or looked over laws that allow them to use inhumane measures to end an animal's life and perform surgical procedures. By approving these rulings, you are giving in to high-volume commercial dog

breeders and affirming their ideology that they can bypass laws and manage their facility without governmental oversight.

Carli Frey
The Ohio State University
Frey.336@osu.edu
740-656-3519

April 26, 2022

Testimony Before Ohio's Joint Commission on Agency Rule Review (JCARR)

Nandita Gaddam, Student

The Ohio State University

John Glenn College of Public Affairs

RE: Personal Comments on OAC Rule 901:1-6-08 (A)

I personally come before the Joint Commission on Agency Rule Review to testify to the fact that the Ohio Department of Agriculture's proposed rules to OAC 901:1-6-05 (N) and 901:1-6-08 (A) violate prong 1 and prong 3 of JCARR standards. Criminal background checks of high-volume commercial dog breeders are required, and the ORC is in conjunction with this as they rule agencies must conduct them.

ORC Section 956.03 states: "(A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(2) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code."

Though all criminal background checks are mandated to be executed by the ODA, the proposed OAC Rule 901:1-6-08 (A), instead shifts the responsibility of performing these checks on the high-volume commercial dog breeders from the ODA to the dog breeders themselves.

Therefore, the proposed OAC Rule 901: 1-6-08 (A) will violate JCARR standards as the mandate both exceeds the rule-making agency's statutory authority (prong 1) and conflicts with the intent of the legislature (prong 3) in enacting the statute under which the rule is proposed (prong 3). ODA lacks the authority to place responsibility on dog breeders to perform any criminal background check themselves.

Nandita Gaddam

The Ohio State University

April 26, 2022

Testimony before Ohio's Joint Commission on Agency Rule Review

Joanna Reen DVM

Ohio Animal Advocates Board Member

RE: Ohio Animal Advocates's Comments on OAC Rule 901:1-6-05 (N), 901:1-6-05 (F) & 901:1-6-08 (A)

My name is Joanna Reen, I am an Ohio licensed small animal veterinarian and surgeon, and am a Board member of Ohio Animal Advocates. I have practiced in Ohio for 30 years. In addition to general practice, I have participated in multiple animal abuse investigations and prosecutions. I wish to come before the Joint Commission on Agency Rule Review to testify that OAC Rule 901:1-6-05(N) and proposed OAC Rules 901:1-6-05(F) and 901:1-6-08 (A) are invalid.

- 1) Current OAC Rule 901: 1-6-05 (N) and proposed OAC Rule 901: 1-6-05 (F) violate JCARR's standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3)

The rules stating that "surgical procedures, except between 2-5 days of age the removal of dewclaw and tail docking, shall only be done by a licensed veterinarian" is in conflict with ORC Section 956.031 (V), enacted as part of Ohio H.B. 506, in regard to high-volume commercial dog breeders, which states "If a surgical or euthanasia procedure is required, use a veterinarian to perform the procedure."

Since the OAC Rule 901 rule package is before JCARR, it must now address the fact that OAC Rule 901: 1-6-05 (F) and OAC Rule 901: 1-6-05 (N) are in violation of JCARR standards (prong 1 and prong 3) as OAC 956.031 (V) clearly states that a veterinarian is to perform all surgical procedures. ODA lacks the authority to enact regulations that allow anyone other than veterinarians to conduct such surgical procedures.

In addition, ORC 4741.19-A states "unless exempted under this chapter, no person shall practice veterinary medicine or its branches without a license or limited license issued by the state veterinary medical licensing board pursuant to sections 4741.11 to 4741.13 of the Revised Code, a temporary permit issued pursuant to section 4741.14 of the Revised Code, or a registration certificate issued pursuant to division(C) of this section, or with an inactive, expired, suspended, terminated or revoked



license, temporary permit or registration. The docking of tails and removal of dewclaws are surgical procedures that constitute the practice of veterinary medicine under ORV 4741.01. OAC Rule 901:1-6-05(N) and proposed OAC Rule 901:1-6-05(F) would allow surgical procedures to be performed on patients aged 2-5 days by persons not licensed as veterinarians. It is clear that regardless of age, these procedures are surgeries and would violate ORC 4741.19.

ORC 959.131 Prohibitions Concerning Companion Animals states:

(A.1) "companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept

(B) No persons shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(C) No person shall knowingly cause serious physical harm to a companion animal.

Persons performing the surgeries of tail docking and/or dewclaw removal that are not licensed veterinarians with documented training in surgical procedures, asepsis, pain management and knowledge and treatment of possible complications are knowingly causing physical harm, torturing and mutilating a companion animal both at the time of surgery due to improper techniques and long term due to complications associated with the procedures which can last days to months to years.

I personally have treated the complications that occur when these procedures are not performed by qualified professionals. The suffering that these animals experience at the time of the procedure and long term from complications is real. The current ORC is in place to prevent this suffering. For this reason, I ask you to invalidate OCA 901:1-5-06(N) and to strike down proposed rule OAC 901:105 1-5-06 (F).

- 2) Proposed OAC Rule 901:1-6-08 (A) violates JCARR's standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3)

ORC mandates that the agency perform criminal background checks of high-volume commercial dog breeders. ORC Section 956.03 states: "(A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(2) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code."



Proposed OAC Rule 901:1-6-08 (A) eliminates that requirement for ODA to perform criminal background checks of the high-volume commercial dog breeders, and transfers the responsibility to the breeders themselves. The intent of the legislature was to provide commercial breeder accountability to ODA to protect animal welfare. Obviously, having breeders perform their own background checks does not protect animal welfare as the legislature intended.

As ORC Section 956.03 clearly states, the director of agriculture shall adopt requirements and procedures for conducting background checks to determine if the applicant has been convicted of or pleaded guilty to an offense that would disqualify the applicant. Proposed OAC Rule 901: 1-6-08 (A) is in violation of JCARR standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3). ODA lacks the authority to transfer the responsibility of background checks to the applicant themselves.

Ohio Animal Advocates strongly urges JCARR to find that the ODA's current rule OAC 901: 1-6-05 (N) and proposed rules 901:1-6-05 (F) and 901:1-6-08 (A) violate JCARR's standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3) and should be invalidated.

April 26, 2020

Written Testimony Before Ohio's Joint Commission on Agency Rule Review
(JCARR)

Andrea Nadolny, Student
The Ohio State University
The John Glenn College of Public Affairs

RE: Personal Comments on OAC Rule 901:1-6-08 (A)

I write to the Joint Commission on Agency Rule Review to testify that the Ohio Department of Agriculture's proposed rule OAC 901:1-6-08 (A) violates prong 1 of JCARR standards.

ORC mandates that the agency perform criminal background checks of high-volume commercial dog breeders. ORC Section 956.03 states: "(A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code."

Proposed OAC Rule 901:1-6-08 (A) eliminates that requirement for ODA to perform criminal background checks of the high-volume commercial dog breeders, and transfers the responsibility to the breeders themselves.

As ORC Section 956.03 clearly states, the director of agriculture shall adopt requirements and procedures for conducting background checks to determine if the applicant has been convicted of or pleaded guilty to an offense that would disqualify the applicant. Proposed OAC Rule 901: 1-6-08 (A) is in violation of JCARR standards as the rules both exceed the rule-making agency's statutory authority (prong 1) and conflict with the intent of the legislature in enacting the statute under which the rule is proposed (prong 3). ODA lacks the authority to transfer the responsibility of background checks to the applicant themselves.

I strongly urge JCARR to find that the Ohio Department of Agriculture's current rule OAC 901: 1-6-08 (A) violates JCARR's standards-making agency's statutory authority and conflicts with the legislature's intent in enacting the statute under which the new rule is proposed.

Andrea Nadolny
The Ohio State University
123nadolny@gmail.com
(614) 302-8611