



## MEMORANDUM

<b>DATE</b>	July 20, 2021
<b>TO</b>	Multidisciplinary Advisory Committee (MDC)
<b>FROM</b>	Inspections Subcommittee (Subcommittee) Jennifer Loreda, RVT Dianne Sequoia, DVM
<b>SUBJECT</b>	<b>Agenda Item 6. Discussion and Potential Recommendation Regarding Veterinary Premises Inspection Checklist and Inspection Process Improvements</b>

### **Background**

During the Veterinary Medical Board's (Board) [2003 Sunset Review](#), the Joint Legislative Sunset Review Committee (JLSRC) raised concerns regarding the number of veterinary facilities inspected on an annual basis, which averaged 13% since the previous Sunset Review in 1996. Additionally, there were concerns that once a facility had been inspected, it would not be inspected again until six or more years later. According to the [Board's Final Response](#) in June 2004 to the issues raised by the JLSRC, "[i]n subsequent oral communications with the Joint Committee, the Board stated that its goal is to have all premises inspected within a five-year period."

In its [2012 Sunset Review](#), the Board reported that due to denial of increases for inspection expenditure authority, the number of inspections had not increased despite efforts to work with existing resources. As a result, the Board's 2013 Sunset Bill, [Senate Bill \(SB\) 304](#) (Lieu, Chapter 515, Statutes of 2013), amended Business and Professions Code (BPC) section [4809.7](#) to require the Board to "make every effort to inspect at least 20% of veterinary premises on an annual basis." Prior to this amendment, BPC section [4809.7](#) contained no percentage mandate and simply stated, "the Board shall establish a regular inspection program which will provide for random unannounced inspections". This also was included in the Board's 2012-2014 Strategic Plan as one of its enforcement goals as historically, the Inspection Unit had always been a subsection of the Enforcement Unit.

Following the enactment of [SB 304](#) in 2014, the Board again made efforts to build its Inspection Unit, which at that time consisted of a single Enforcement Analyst and five inspectors. By 2015, the Inspections Unit consisted of one Hospital Inspection Coordinator, one Staff Services Analyst (SSA), one Office Technician (OT) and 13 inspectors. That year, the Board nearly tripled the number of inspections conducted from 203 in 2014 to 601, and the decision was made to separate Inspections into its own unit. The following year, Inspections reached an all-time high of 628 inspections performed. However, the workload volume generated from these inspections was unprecedented and overwhelming for staff, resulting in significant backlogs that remain today.

Subsequently, [SB 546](#) (Hill, 2017) was introduced and would have amended BPC section [4809.7](#) to state, in part, “The Board shall inspect at least 20 percent of veterinary premises on an annual basis... .” As recorded in the Board’s April 19, 2017 [Meeting Minutes](#), the Executive Officer reported that the Board had requested the following provisions be included in SB 546:

The first provision would change existing statutory language surrounding a “suggested” 20 percent inspection of all registered veterinary premises and instead make the 20 percent inspection language mandatory. The change would assist the Board in securing necessary funding from the Department of Finance. The legislative request, taken from the Board’s 2015 Strategic Plan, would mandate the Board to inspect 20 percent of all veterinary premises on an annual basis and, mandate that all new veterinary premises be inspected within one year of being issued a premises permit.

It was also reported that the Board had insufficient funds to complete the annual goal of inspecting 20% of premises.

At the Board’s October 19, 2017 meeting, it was reported the Senate Appropriations Committee raised concerns regarding the potential fiscal impact to the Board and its Fund if the Board’s proposed amendment to mandate 20% inspection was enacted. (October 19, 2017 [Meeting Materials](#), Agenda Item 11.B.) As such, the inspection mandate was stricken from the bill before passing out of the Senate Business, Professions and Economic Development Committee. The Executive Officer requested the Board move the inspection mandate forward in the next legislative session because mandatory hospital premises inspections “would ensure consumer protection, require a minimum number of annual inspections performed, and assist in obtaining additional funding for the program.” (October 19, 2017 [Meeting Minutes](#), p. 7.)

The inspection mandate provisions reemerged the following year in [SB 1480](#) (Hill, Chapter 571, Statutes of 2018), which passed and became effective January 1, 2019. The language of BPC section [4809.7](#) now states, “The board shall establish a regular inspection program that will provide for random, unannounced inspections and the board shall inspection at least 20 percent of veterinary premises on an annual basis.”

After [SB 1480](#) passed, a legislative Budget Change Proposal (BCP) was approved, giving the Board additional budget allocation for two analysts and one technician. It should be noted that BCPs provide the Board with budget authority from the *existing* fund, but they do not provide *additional* funds to the Board. The only way for the Board to receive additional funding is through increased license, registration, and/or permit fees. So, although it was noted in 2017 that the Board had insufficient funds to support the existing program, the program grew without any additional funds.

In addition, due to the significant backlog created by the inspection surge, routine inspections were temporarily paused while the analysts focused on closing complaint-related inspections, the remaining routine inspections, and the probation inspections. As a result, the number of inspections performed significantly decreased.

During the Strategic Planning discussion at its October 23, 2020 meeting, the Board discussed the difficulty in meeting the annual 20% veterinary premises inspection mandate under BPC section [4809.7](#). Historically, the Board has never been able to meet this mandate. The Board-approved Strategic Plan included a goal to evaluate the feasibility of the 20% inspection mandate. In addition, some Board members proposed re-evaluating the inspections checklist and decreasing the number of items being inspected to reduce the amount of time it takes Board inspectors to complete inspections and Board staff to review the reports.

With that suggestion in mind, the Board directed the MDC to evaluate the inspection process and checklist and make recommendations to the full Board. MDC Chair, Kristi Pawlowski, RVT, established the Subcommittee and appointed Margaret Warner, DVM, and Jennifer Loreda, RVT, as the Subcommittee members. With the departure of Dr. Warner, the MDC Chair appointed Dianne Sequoia, DVM, to the Subcommittee.

During the April 2021 MDC meeting, the Inspections Subcommittee reported its research regarding inspections programs within DCA and other veterinary state boards nationwide. It was noted how the Board was the only DCA program that had a percentage mandate, and how the Board has never been able to meet the 20% mandate. In addition, the Inspection Subcommittee opined the 20% mandate is unrealistic. The April 2021 Inspection Subcommittee memo can be found [here](#) for reference.

### **Status Update**

On June 30, 2021, the Inspection Subcommittee met with the Board's Inspections and Enforcement Managers and the Executive Officer to hear their perspectives on how well the Inspections and Enforcement Units were operating, challenges they were facing, and their proposed solutions.

The Inspections Manager shared the history of the 20% mandate, the Board's challenges in ever meeting the mandate, and how, even when the inspections were being performed, Board staff was unable to timely review the inspection reports that came to the Board. It often took over two to three years for the Inspections Unit to review a report, which, by that time, would be challenging to take any corrective action. These inspection reports often warranted additional follow-up inspections to determine if the violations were still occurring. Over the past two years, Board staff and management have taken note of the inefficiencies related to the interactions between the Inspections and Enforcement Units.

The Inspection Manager also shared the cumbersome process for handling complaint-related inspections:

When the Board received a complaint alleging poor sanitary conditions, the enforcement technician created a case in the BreEZe enforcement module and assigned it to an enforcement analyst. The enforcement analyst would conduct the initial desk investigation, and then create a detailed memo for the Inspections Unit and added the request on an internal tracking log. The case was then sent to the Inspections Unit, where the inspection analyst reviewed the memo, added any missing information to the tracking log, created an additional complaint in the enforcement module (labeling it as inspections), and then created an inspection record in the inspection module.

It was then sent to an inspector who conducted the inspection and worked with the Managing Licensee or their designee for 30-90 days to achieve compliance. Once the inspector completed their review and narrative report, the inspection case, along with the corrections, were mailed to the Board. The inspection technician would log the inspection in BreEZe inspection module, update the tracking log, and submit the case to the Inspections Manager for reviewed. The manager would then send the case and corresponding medical records to the in-house inspection consultant for a written report, which was sent back to the enforcement analyst to continue the investigation process. At that point, the Enforcement Unit would send the entire case to the enforcement consultant, and, if necessary, send the case to an outside enforcement subject matter expert, and then back to the enforcement analyst for further action.

In addition, prior to 2020, the Inspections Manager was solely reviewing all complaint-related inspections. However, in 2020, the inspections analysts began reviewing them.

These inspections tend to be more complex than routine inspections, but they are crucial, since these were a result from consumer complaints alleging sanitary issues, among others. Furthermore, the analysts began handling the inspection cases until completion, including the disciplinary process. These duties have always been on the inspection analysts' duty statements, but they were never trained on the process or asked to complete these duties.

While some steps have been eliminated from the process (e.g., detailed memo between units and external tracking logs), the workload and costs associated with the separate units still need to be addressed.

The Inspections Manager and Enforcement Managers also shared the following concerns with the Subcommittee:

#### Confusion

There is a significant amount of confusion when a complaint received by the Enforcement Unit is given to the Inspection Unit; this involves complaints alleging solely facility concerns, as well as complaints alleging both facility concerns and standard of care concerns. Regardless, when a complaint is opened in Enforcement, it memorializes the consumer concern until it is closed. With the artificial separation of the units within the Board and BreEZe, it becomes problematic to track the complaint for responsibility and/or reporting purposes.

#### Animosity

The artificial separation of the two units creates an unintended consequence in the form of animosity between staff. Due to the above-referenced confusion, responsibility for investigation progression sometimes results in finger-pointing. Enforcement staff will blame the Inspections Unit for cases which are not progressing, and vice versa.

#### Costs

Board staff constantly is concerned with minimizing investigation costs. This ties directly to the focus on using only one expert for case review, one analyst for case investigation, etc. The current structure is not in line with this thinking, as a case will go from the Enforcement Unit to the Inspections Unit, and back to the Enforcement Unit, adding unnecessary time, as well as costs to a case. This is not in the best interest of consumers.

Based on this information and the obstacles both units currently face, the Inspections and Enforcement managers and the Executive Officer plan to reintegrate Inspections back to the Enforcement Unit. This will eliminate confusion, reduce the number of staff and subject matter experts involved in the case, and ultimately save costs.

The new process will be very similar to how enforcement analysts currently send cases to a subject matter expert or the Department of Consumer Affairs, Division of Investigations (DOI) for further review/investigation. The single enforcement analyst would send the case directly to the inspector, and the reports/corrective documents would go directly back to the analyst for further processing.

In addition, the inspections/enforcement technicians will begin initiating and processing routine inspections. Board staff anticipate closing most routine inspections with compliance obtained and/or educational letters, but when further action is warranted, the technicians would refer the case to the enforcement analysts.

### **Subcommittee Comments**

After hearing all the challenges the two units are experiencing, the Subcommittee agrees with the plan to merge the two units. Failure to implement this move could continue to negatively impact the effectiveness of the Inspection program as the Board's educational, outreach, and enforcement tool to protect the public.

While the Subcommittee already determined the 20% mandate is unrealistic, it would like to obtain more data to determine what a realistic mandate would be. Over the next year, the Subcommittee can monitor the effectiveness of the merge, determine how many inspections can be completed timely with the process improvements, and use that data to determine realistic expectations with the current resources.

### **Next Steps for the Subcommittee**

- Monitor progress of the merge and monthly inspection statistics.
- Determine a baseline of inspections that can be completed with existing resources.
- Continue evaluating the inspections checklist and bring draft recommendations to the MDC in October for consideration.