

CHAPTER 1
ADMINISTRATION

MISSION STATEMENT

The department's mission is to assure state and federal program integrity by adjudicating, examining, and enforcing compliance to protect the health, safety and welfare of Iowans.

481—1.1(10A) Organization.

1.1(1) *Overview of the department.* The Iowa department of inspections and appeals was established by Iowa Code sections 10A.101 to 10A.801. The chief executive officer of the department is the director of the department of inspections and appeals who shall be appointed by the governor to serve at the pleasure of the governor subject to confirmation by the senate no less frequently than every four years.

1.1(2) *Appointment of deputy.* The director is assisted by a deputy director who is appointed by the director of inspections and appeals.

1.1(3) *Organization of department.* The department is organized into divisions which are further divided into bureaus and units.

1.1(4) *Director's duties.* The director has general supervision over the administration and operation of all divisions. The director also develops statewide programs in compliance with the goals of the department.

1.1(5) *Deputy director's duties.* The deputy director serves as the principal deputy to the director. The deputy director represents the director in various capacities as directed.

1.1(6) *Issuance of subpoenas.* The director, or designee of the director, shall have the authority to issue subpoenas in accordance with the provisions of Iowa Code sections 10A.104(6) and 17A.13. In connection with audits, appeals, investigations, inspections, hearings, and any other permissible matters conducted by the department, the director, or designee of the director, may, upon the written request of a department employee or on the director's own initiative:

a. Issue subpoena duces tecum for the production and delivery of books, papers, records and other real evidence; and

b. Issue subpoenas for the appearance of persons to provide statements, statements under oath and depositions.

1.1(7) *Contents of subpoenas.* Each subpoena shall contain the following:

a. The name and address of the person to whom the subpoena is directed;

b. The date, time and location for the appearance of the person;

c. A description of the books, papers, records or other real evidence requested;

d. The date, time and location for production, inspections, or copying of the books, papers, records or other real evidence;

e. The signature and address of the director or designee;

f. The name, address and telephone number of a department employee who can be contacted for purposes of providing clarification or assistance in compliance with the subpoena;

g. The date of issuance; and

h. A return of service.

1.1(8) *Motions to quash or modify subpoena.* A person who desires to challenge a subpoena directed to that person must, within ten days after service of the subpoena, or before the time specified for compliance, if such time is less than ten days, file with the director a motion to quash or modify the subpoena. Upon receipt of a timely motion to quash or modify a subpoena, the director or the director's designee may issue a decision or request an administrative law judge to issue a decision. Oral argument may be scheduled and conducted at the discretion of the director or the director's designee or the administrative law judge. The director or the director's designee or the administrative law judge may quash or modify the subpoena, deny the motion, or issue other appropriate orders. A person aggrieved by a ruling of an administrative law judge and who desires to challenge that ruling must appeal the ruling to the director by serving the director, either in person or by certified mail, a notice of

appeal within ten days after service of the decision of the administrative law judge. The director's or the director's designee's decision is final for purposes of judicial review.

1.1(9) Failure to comply with subpoena. If the person to whom the subpoena is directed refuses or fails to obey the subpoena, the director, or the director's designee, may cause a petition to be filed in the Iowa district court seeking an order for the person's compliance. Failure to obey orders of that court shall render the person in contempt of the court and subject to penalties provided for that offense.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.2(10A) Definitions. For rules of the department of inspections and appeals[481], the following definitions apply:

"Department" means the department of inspections and appeals.

"Director" means the director of the department.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.3(10A) Administration division. This division provides administrative support to the department, including fiscal, policy and planning, information technology, and public information. This division negotiates and provides oversight for compacts entered into between the state of Iowa and Indian tribes located in the state. The division certifies targeted small businesses. The division also inspects and licenses the following entities:

1. Social and charitable gambling pursuant to Iowa Code chapter 99B;
2. Food establishments, including but not limited to restaurants, vending establishments, and mobile food units;
3. Hotels, home food establishments, and egg handlers;
4. Inspections for sanitation in any locality of the state upon written petition of five or more residents of the locality.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.4(10A) Investigations division. This division conducts audits and investigations, including but not limited to the following:

1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medicine, the board of pharmacy, the dental board, and the board of nursing.
2. Audits relative to the administration of hospitals and health care facilities.
3. Audits relative to administration and disbursement of funding under the state supplementary assistance program.
4. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services.
5. Investigations relative to the operations of the department on aging.
6. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food assistance program, the family investment program, and any other state or federal benefit assistance program.
7. Investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.
8. Investigations relative to Medicaid fraud and dependent adult abuse.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.5(10A) Health facilities division. This division conducts inspections and investigations, including but not limited to the following:

1. Investigations relative to the standards and practices of hospitals, hospice programs, and health care facilities.
2. Inspections and other licensing procedures relative to hospice programs, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.

3. Inspections relative to hospital and health care facility construction projects.
 4. Inspections of child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.
 5. Inspections and certification of elder group homes, assisted living programs, and adult day services programs.
 6. Registration of boarding homes.
 7. Investigation of dependent adult abuse in facilities and programs.
- [ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.6(10A) Administrative hearings division. The division conducts contested case hearings for state agencies, departments, boards, and commissions. In addition, the division conducts contested case hearings for some counties and municipalities.

1.6(1) All hearings are governed by Iowa Code chapter 17A, other applicable statutes, including the transmitting agency's enabling statute and the statute authorizing the action taken, applicable agency rules, and the department's administrative rules found at 481—Chapter 10.

1.6(2) The administrator shall coordinate the division's conduct of all hearings.
[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.7(10A) Administering discretion. Nothing in the aforesaid allocation of duties shall be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the director.
[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.8(10A) Employment appeal board. The employment appeal board consists of three members appointed by the governor, subject to confirmation by the senate, to staggered six-year terms. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. This board hears and decides contested cases under Iowa Code chapters 8A, subchapter IV, 80, 88, 96, and 97B in accordance with administrative rules promulgated by the employment appeal board.
[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.9(10A,237) Child advocacy board. The child advocacy board consists of nine members appointed by the governor, subject to confirmation by the senate. This board administers foster care review and the court appointed special advocate programs, as defined in Iowa Code section 237.18, in accordance with administrative rules promulgated by the board.
[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.10(10A,13B) State public defender. The governor shall appoint the state public defender, who shall serve at the pleasure of the governor, subject to confirmation by the senate. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under Iowa Code section 811.1A or Iowa Code chapter 229A or 812, in juvenile proceedings, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to Iowa Code chapter 908.
[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.11(10A,99D,99F) Racing and gaming commission. The Iowa racing and gaming commission regulates pari-mutuel dog and horse racing, gambling structures, and excursion gambling boats in Iowa. The commission, whose five members are appointed by the governor, seeks to preserve the integrity of these industries and to maintain confidence in the industries by protecting the public. In performing its duties, the commission investigates the eligibility of applicants for licensure and selects those that can best serve the citizens of Iowa. The commission adopts standards for the licensing of racing industry

occupations, as well as standards for the operation of all race meetings and facilities. The commission also adopts standards for the operation and licensing of gambling structures and excursion gambling boats.

[ARC 8431B, IAB 12/30/09, effective 2/3/10]

481—1.12(10A) Health facilities division. Rescinded IAB 12/30/09, effective 2/3/10.

These rules are intended to implement Iowa Code chapters 10A, 13B, 99D, 99F, and 237.

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