

CHAPTER 1
ADMINISTRATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

MISSION STATEMENT

The department's mission is to achieve compliance through education, regulation, and due process for a safe and healthy Iowa.

481—1.1(10A) Organization.

1.1(1) *Overview of the department.* The Iowa department of inspections and appeals is established by Iowa Code sections 10A.101 to 10A.802. 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; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.2(10A) Definitions. The definitions set forth in Iowa Code section 10A.101 are incorporated herein.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

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 also inspects and licenses the following:

1. Social and charitable gambling pursuant to Iowa Code chapter 99B;
2. Food establishments, including but not limited to restaurants, vending machines, mobile food units, food processing plants, and home food processing plants;
3. Hotels.

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481—1.4(10A) Investigations division. The investigations division of the department conducts criminal, civil, and administrative investigations of fraud and misconduct. The division also conducts audits of health care facilities. Staff within the division work closely with federal, state, and local partners in identifying fraud, waste, and abuse and, where appropriate, presenting cases for criminal prosecution.

1.4(1) Units of the division. The division is comprised of the following units.

a. Audit unit. The audit unit audits health and human services health care facilities to review and verify facility resident billing and personal allowance accounts and to determine whether state billings accurately reflect the health care facility census. The unit audits local department of human services offices to review and verify whether administrative expense claims and official receipts are in accordance with the criteria set forth in 2 CFR Part 200 and state law.

b. Economic fraud control bureau (EFCB). The economic fraud control bureau investigates recipient public assistance fraud and supplemental nutrition assistance program (SNAP) trafficking. Division staff investigate suspected fraud and assist the department of human services to determine eligibility for public assistance. Division staff may conduct investigations relative to the administration of any other state or federal benefit assistance program. Division staff may also conduct 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.

c. Medicaid fraud control unit (MFCU). The Medicaid fraud control unit investigates allegations of fraud committed by providers against the Medicaid program as well as fraud in the administration of the Medicaid program. MFCU also investigates abuse, neglect or other crimes committed upon residents in care facilities or related programs that receive funding from the Medicaid program.

d. Public assistance debt recovery unit (PADRU). The public assistance debt recovery unit investigates and initiates collections of overpayment debts owed to the department of human services.

1.4(2) Peace officer status. Pursuant to Iowa Code section 10A.403, investigators assigned to the division shall have the powers and authority of peace officers when acting within the scope of their responsibilities to conduct investigations as specified in Iowa Code section 10A.402(5). An investigator shall not carry a weapon to perform responsibilities as described in this subrule.

This rule is intended to implement Iowa Code sections 10A.401 to 10A.403.

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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—Chapters 9 to 11.

1.6(2) The administrator shall coordinate the division's conduct of all hearings.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

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, 91C, 96, and 97B in accordance with administrative rules promulgated by the employment appeal board.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

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 horse racing, simulcasting, gambling structures, excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests in Iowa. The commission, whose five members are appointed by the governor, administers the laws and rules associated with these industries to maintain confidence in the industries and to ensure the integrity of licensed participants and operations for the state and the wagering public. In performing its duties, the commission investigates the eligibility of applicants for licensure. 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 pari-mutuel and simulcast wagering, gambling structures, excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests.

[ARC 8431B, IAB 12/30/09, effective 2/3/10; ARC 6862C, IAB 2/8/23, effective 3/15/23]

481—1.12(10A,68B) Consent for the sale of goods and services. An official or employee of the department shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and rule 351—6.11(68B).

[ARC 6862C, IAB 2/8/23, effective 3/15/23]

These rules are intended to implement Iowa Code chapters 10A, 13B, 68B, 99D, 99F, and 237.

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