

35D.15 Rules enforced — power to suspend and discharge members.

1. The commandant shall administer and enforce all rules adopted by the commission, including rules of discipline and, subject to these rules, may immediately suspend the membership of and discharge any person from the home for infraction of the rules when the commandant determines that the health, safety, or welfare of the residents of the home is in immediate danger and other reasonable alternatives have been exhausted. The suspension and discharge are temporary pending action by the commission. Judicial review of the action of the commission may be sought in accordance with [chapter 17A](#).

2. *a.* The commandant shall, with the input and recommendation of the interdisciplinary resident care committee, involuntarily discharge a member for any of the following reasons:

(1) (a) The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member's conditional or provisional agreement entered into at the time of admission, and all of the following conditions are met:

(i) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(ii) The member has been notified of the member's commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

(A) Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

(B) By having been placed on probation by the Iowa veterans home for a second offense.

(b) Notwithstanding the member's meeting the criteria for discharge under this subparagraph (1), if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the interdisciplinary resident care committee and the commandant may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged under this subparagraph (1) if the member's actions or behavior jeopardizes the life or safety of other members or staff.

(2) (a) The member refuses to utilize the resources available to address issues identified in the member's collaborative care plan, and all of the following conditions are met:

(i) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(ii) The member has been notified of the member's commission of three offenses and the member has been placed on probation by the Iowa veterans home for a second offense.

(b) Notwithstanding the member's meeting the criteria for discharge under this subparagraph (2), if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the interdisciplinary resident care committee and the commandant may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged if the member's actions or behavior jeopardizes the life or safety of other members or staff.

(3) The member no longer requires a residential or nursing level of care, as determined by the interdisciplinary resident care committee.

(4) The member requires a level of licensed care not provided at the Iowa veterans home.

b. (1) If a member is discharged under [this subsection](#), the discharge plan shall include placement in a suitable living situation which may include but is not limited to a transitional living program approved by the commission or a living program provided by the United States veterans administration.

(2) If a member is involuntarily discharged under [this subsection](#), the commission shall, to the greatest extent possible, ensure against the veteran being homeless and ensure that the domicile to which the veteran is discharged is fit and habitable and offers a safe and clean environment which is free from health hazards and provides appropriate heating, ventilation, and protection from the elements.

c. (1) An involuntary discharge of a member under [this subsection](#) shall be preceded by a written notice to the member. The notice shall state that unless the discharge is an immediate discharge due to the member's actions or behavior which jeopardizes the life or safety of other members or staff, the effective date of the discharge is thirty calendar days from the date of receipt of the discharge notice, and that the member has the right to appeal the discharge. If

a member appeals such discharge, the member shall also be provided with the information relating to the appeals process as specified in this paragraph “c”.

(2) If the member appeals the discharge under [this subsection](#), the following provisions shall apply:

(a) The member shall file the appeal with the commission within five calendar days of receipt of the discharge notice.

(b) The commission shall render a decision on the appeal and notify the member of the decision, in writing, within ten calendar days of the filing of the appeal.

(c) If the member is not satisfied with the decision of the commission, the member may appeal the commission’s decision by filing an appeal with the department of inspections and appeals within five calendar days of being notified in writing of the commission’s decision.

(d) The department of inspections and appeals shall render a decision on the appeal of the commission’s decision and notify the member of the decision, in writing, within fifteen calendar days of the filing of the appeal with the department.

(e) The maximum time period that shall elapse between receipt by the member of the discharge notice and actual discharge shall not exceed fifty-five days, which includes the thirty-day discharge notice period and any time during which any appeals to the commission or the department of inspections and appeals are pending.

(3) If a member is not satisfied with the decision of the department of inspections and appeals, the member may seek judicial review in accordance with [chapter 17A](#). A member’s discharge under [this subsection](#) shall be stayed while judicial review is pending.

d. Annually, by the fourth Monday of each session of the general assembly, the commandant shall submit a report to the veterans affairs committees of the senate and house of representatives specifying the number, circumstances, and placement of each member involuntarily discharged from the Iowa veterans home under [this subsection](#) during the previous calendar year.

e. The commission shall adopt rules to enforce [this subsection](#).

f. Any involuntary discharge by the commandant under [this subsection](#) shall comply with the rules adopted by the commission under [this subsection](#) and by the department of inspections and appeals pursuant to [section 135C.14, subsection 8](#), paragraph “f”.

g. For the purposes of [this subsection](#):

(1) “*Collaborative care plan*” means the plan of care developed for a member by the interdisciplinary resident care committee.

(2) “*Interdisciplinary resident care committee*” means the member, a social worker, a registered nurse, a dietitian, a medical provider, and a recreation specialist who are involved in reviewing a member’s assessment data and developing a collaborative care plan for the individual member. For an individual member who is also a patient, the interdisciplinary resident care committee shall also include a mental health treatment staff member.

[C39, §3384.18; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.18]

84 Acts, ch 1277, §14; 92 Acts, ch 1140, §32

C93, §35D.15

2009 Acts, ch 62, §1; 2013 Acts, ch 36, §11, 12

Referred to in §135C.14