CHAPTER 35D

VETERANS HOME

Referred to in §35.1, 714.8

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35D.1 Purpose of home — definitions.

1. The Iowa veterans home, located in Marshalltown, shall be maintained as a long-term health care facility providing nursing and residential levels of care for honorably discharged veterans and their dependent spouses, surviving spouses of honorably discharged veterans, and gold star parents. Eligibility requirements for admission to the Iowa veterans home shall coincide with the eligibility requirements for care and treatment in a United States department of veterans affairs facility pursuant to 38 U.S.C. §1710, and regulations promulgated under that section, as amended. For the purposes of this subsection, *"gold star parent"* means a parent of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict or who died as a result of such service.

2. As used in this chapter:

a. *"Commandant"* means the commandant of the Iowa veterans home appointed pursuant to section 35D.13.

b. *"Commission"* means the commission of veterans affairs established in section 35A.2.

c. *"Member"* means a patient or resident of the home.

[C97, §2601, 2602, 2606; S13, §2601, 2602, 2606; SS15, §2606; C24, 27, 31, 35, §3366, 3367; C39, §**3384.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.1]

84 Acts, ch 1277, §1; 92 Acts, ch 1140, §22

C93, §35D.1

2009 Acts, ch 26, §5; 2013 Acts, ch 36, §1

Referred to in §35D.2

35D.2 Right to admission.

1. Persons described in section 35D.1 who are disabled by disease, injury, or old age, and who meet the qualifications for nursing or residential care, and who are unable to earn a livelihood, and who are residents of the state of Iowa on the date of the application and immediately preceding the date the application is accepted, may be admitted to the home as members under rules adopted by the commission. The commission shall adopt rules to emphasize the admission of homeless honorably discharged veterans. Eligibility determinations are subject to approval by the commandant.

2. A person shall not be received or retained in the home who has been diagnosed by a qualified mental health professional as acutely mentally ill and considered dangerous to self

or others, is an acute inebriate, or is addicted to the use of drugs, and whose documented behavior is continuously disruptive to the operation of the facility.

1. [C97, §2602; S13, §2602, 2606; SS15, §2606; C24, 27, 31, 35, §3366; C39, §**3384.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.2]

2. [C97, §2605; C24, 27, 31, 35, §3370; C39, §**3384.13**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.13]

84 Acts, ch 1277, §2
C85, §219.2
92 Acts, ch 1140, §23
C93, §35D.2
2013 Acts, ch 36, §2; 2014 Acts, ch 1092, §21

35D.3 Rules — general management.

The commission shall adopt all the necessary rules, pursuant to chapter 17A, for the preservation of order and enforcement of discipline, the promotion of health and well-being of all the members and the management and control of the home and its grounds.

[C97, §2602; C24, 27, 31, 35, §3367; C39, §**3384.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.3]

84 Acts, ch 1277, §3; 92 Acts, ch 1140, §24
C93, §35D.3

35D.4 Married couples — quarters — cottages.

1. When a married person is or becomes a member of the home, the spouse, if married to the person for at least one year and otherwise eligible under this chapter, may be admitted as a member of the home subject to the rules of the home. Veteran and spouse members may be permitted to occupy, together, cottages or other quarters on the grounds of the home.

2. The cottages may be made available to persons on the staff of the home at a rental rate determined by the commandant.

[C97, §2606; S13, §2606; SS15, §2606; C24, 27, 31, 35, §3366, 3368; C39, §**3384.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.4]

84 Acts, ch 1277, §4; 92 Acts, ch 1140, §25
C93, §35D.4
2013 Acts, ch 36, §3

35D.5 Surviving spouses of veterans.

If a deceased veteran, who would be entitled to admission to the home if the deceased veteran were living, has left a surviving spouse, the spouse is entitled to admission to the home with the same rights, privileges, and benefits as if the veteran were living and a member of the home, if the spouse was married to the veteran for at least one year immediately prior to the veteran's death, is found by the commandant to be disabled, meets the qualifications for nursing or residential level of care, and is a resident of the state of Iowa on the date of the application and immediately preceding the date the application is accepted.

[C97, §2606; S13, §2606; C24, 27, 31, 35, §3366; C39, §**3384.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.5]

84 Acts, ch 1277, §5
C93, §35D.5
2013 Acts, ch 36, §4

35D.6 Certificate of eligibility.

Before admission, each applicant shall file with the commandant an affidavit signed by two members of the commission of veteran affairs of the county in which the person resides, stating that the person to the best of their knowledge and belief is a resident of that county and that the person is unable to earn a livelihood and the person's income is less than is sufficient to provide the type of health care necessary for the person's welfare. The affidavit is conclusive evidence of the residence of the person but is prima facie only in all other matters affecting the eligibility of the applicant and the liability of the county with respect to the

expense of the person for which the county may be liable. All records of admission shall show the residence of the applicant.

[C97, §2602; S13, §2602; C24, 27, 31, 35, §3369; C39, §**3384.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.6]

84 Acts, ch 1277, §6

C93, §35D.6

2013 Acts, ch 36, §5

35D.7 Contributing to own support.

1. Except as otherwise provided in chapter 249A and other provisions of this chapter, a member of the home who receives a pension, compensation, or gratuity from the United States government, or income from any source of more than one hundred forty dollars per month, shall contribute to the member's own maintenance or support while a member of the home. The amount of the contribution and the method of collection shall be determined by the commandant, but the amount shall in no case exceed the actual cost of keeping and maintaining the person in the home.

2. Sums paid to and received by the commandant for the support of members of the home shall be considered repayment receipts as defined in section 8.2 and credited to the Iowa veterans home account referred to in section 35D.18, subsection 3.

3. The commandant may allow any member of the home to render assistance in the care of the home and its grounds as the member's psychosocial and physical condition permit, as a phase of that member's rehabilitation program. The commandant shall compensate each member who furnishes assistance at rates approved by the commission.

1,3. [S13, §2602-a, 2606-a; C24, 27, 31, 35, §3377; C39, §**3384.14**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.14]

2. [S13, §2602-a; C24, 27, 31, 35, §3372; C39, §**3384.17**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.17]

84 Acts, ch 1277, §7

C85, §219.7

92 Acts, ch 1140, §26

C93, §35D.7

2013 Acts, ch 36, §6

35D.8 Conditional admittance. Repealed by 2013 Acts, ch 36, §14.

35D.9 County of settlement upon discharge.

A member of the home does not acquire legal settlement in the county in which the home is located unless the member is voluntarily or involuntarily discharged from the home, continuously resides in the county for a period of one year subsequent to the discharge, and during that year is not readmitted to the home or does not receive any services from the home.

[C97, §2605; C24, 27, 31, 35, §3370; C39, §**3384.13**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.13]

84 Acts, ch 1277, §9

C85, §219.9

C93, §35D.9

35D.10 Payment to spouse.

Except as otherwise provided in chapter 249A and other provisions of this chapter, a member of the home who receives a pension or compensation and who has a spouse shall deposit with the commandant on receipt of the member's pension or compensation check one-half of its amount, which shall be sent by the eighth day of the month or at once if any such pension or compensation is received after the eighth day of the month to the spouse.

[S13, §2606-c; C24, 27, 31, 35, §3379, 3384; C39, §**3384.15**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.15]

84 Acts, ch 1277, §10

C85, §219.10
C93, §35D.10
2013 Acts, ch 36, §7
Referred to in §35D.11

35D.11 Handling of pension money and other funds.

1. Pension money deposited with the commandant is not assignable for any purpose except as provided in section 35D.10, or in accordance with subsection 2 of this section.

2. The commandant, if authorized by a member of the home, and pursuant to policies adopted by the commission, may act on behalf of that member in receiving, disbursing, and accounting for personal funds of the member received from any source. The authorization may be given by the member at any time and shall not be a condition of admission to the home.

[S13, §2606-b; C24, 27, 31, 35, §3383; C39, §**3384.20**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.20]
84 Acts, ch 1277, §11
C85, §219.11
92 Acts, ch 1140, §28
C93, §35D.11
2013 Acts, ch 36, §8

35D.12 Bank account for members' deposits.

1. *a.* The Iowa veterans home, for the convenience of its members, may maintain a commercial account with a federally insured bank for the individual personal deposits of its members. The account shall be known as the Iowa veterans home membership account. The commandant shall record each member's personal deposits individually and shall deposit the funds in the membership account, where the members' deposits shall be held in the aggregate.

b. The Iowa veterans home may withdraw moneys from the account maintained pursuant to this subsection to establish certificates of deposit for the benefit of all members. The commission shall adopt rules pursuant to chapter 17A for the administration of this paragraph.

2. The commandant, if authorized by a member of the home, and pursuant to policies adopted by the commission, may make withdrawals against that member's personal account to pay regular bills and other expenses incurred by the member. The authorization may be given by the member at any time and shall not be a condition of admission to the home.

84 Acts, ch 1277, §12
C85, §219.12
92 Acts, ch 1140, §29
C93, §35D.12
2013 Acts, ch 36, §9

35D.13 Commandant.

1. The governor shall appoint a commandant, subject to senate confirmation, who shall serve at the pleasure of the governor as the chief executive of the home. The commandant shall report directly to the commission and shall have the immediate custody and control, subject to the orders of the commission, of all property used in connection with the home.

2. The commandant shall be a resident of the state of Iowa who served in the armed forces of the United States and was honorably discharged.

3. The salary of the commandant shall be fixed by the governor within salary guidelines or a range established by the general assembly. In addition to salary, the commission shall furnish the commandant with a dwelling house or with appropriate quarters and additional allowances, as provided in section 218.14 for executive heads of state institutions.

1. [C97, §2604; S13, §2604; SS15, §2604; C39, §**3384.07**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.7; 81 Acts, ch 27, §4]

2. [C97, §2604; S13, §2604; SS15, §2604; C24, 27, 31, 35, §3374; C39, §**3384.08**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.8]

3. [C97, §2604; S13, §2604; SS15, §2604; C24, 27, 31, 35, §3373; C39, §**3384.09**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.9]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1277, §13
C85, §219.13
92 Acts, ch 1140, §30
C93, §35D.13
2004 Acts, ch 1175, §224; 2013 Acts, ch 36, §10
Referred to in §35A.1, 35D.1
Confirmation, see §2.32
Similar provisions, see §218.14 and 904.305

35D.14 Personnel — expenses — compensation.

1. The commandant or the commandant's designee shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the commandant. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter 8A, subchapter IV.

2. The commandant and employees of the Iowa veterans home are entitled to receive, in addition to salary, reimbursement for actual expenses incurred while engaged in the performance of official duties pursuant to section 35A.2, subsection 3.

92 Acts, ch 1140, §31; 92 Acts, ch 1247, §29; 2003 Acts, ch 145, §150; 2012 Acts, ch 1059, §11

35D.14A Volunteer record checks.

1. Persons who are potential volunteers or volunteers in the Iowa veterans home in a position having direct individual contact with patients or residents of the home shall be subject to criminal history and child and dependent adult abuse record checks in accordance with this section. The Iowa veterans home shall request that the department of public safety perform the criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state and may request these checks in other states.

2. *a.* If it is determined that a person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the person shall not participate as a volunteer with direct individual contact with patients or residents of the Iowa veterans home unless an evaluation has been performed by the department of human services to determine whether the crime or founded child or dependent adult abuse warrants prohibition of the person's participation as a volunteer in the Iowa veterans home. The department of human services shall perform such evaluation upon the request of the Iowa veterans home.

b. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved.

c. If the department of human services performs an evaluation for the purposes of this section, the department of human services has final authority in determining whether prohibition of the person's participation as a volunteer is warranted. The department of human services may permit a person who is evaluated to participate as a volunteer if the person complies with the department's conditions relating to participation as a volunteer which may include completion of additional training.

2009 Acts, ch 93, §1

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

35D.16 Dispositions of active duty members charged with offense. Repealed by 2013 Acts, ch 36, §14.

35D.17 Report by commandant.

The commandant shall, biennially, make a full and detailed report to the governor, the commission, and the general assembly, showing the condition of the home, the number of members in the Iowa veterans home, the order and discipline enforced, and the needs of the home financially and otherwise, together with an itemized statement of all receipts and

disbursements and any other matters of importance in the management and control of the Iowa veterans home.

[C39, §**3384.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §219.21]
84 Acts, ch 1277, §16; 92 Acts, ch 1140, §34
C93, §35D.17

35D.18 Net general fund appropriation — purpose.

1. The Iowa veterans home shall operate on the basis of a net appropriation from the general fund of the state. The appropriation amount shall be the net amount of state moneys projected to be needed for the Iowa veterans home for the fiscal year of the appropriation. The purpose of utilizing a net appropriation is to encourage the Iowa veterans home to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts among all providers of funding for the services available from the Iowa veterans home.

2. The net appropriation made to the Iowa veterans home may be used throughout the fiscal year in the manner necessary for purposes of cash flow management. The Iowa veterans home may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

3. Revenues received that are attributed to the Iowa veterans home during a fiscal year shall be credited to the Iowa veterans home account and shall be considered repayment receipts as defined in section 8.2, including but not limited to all of the following:

a. United States department of veterans affairs payments.

b. Medical assistance program revenue received under chapter 249A.

c. Federal Medicare program payments.

d. Other revenues generated from current, new, or expanded services that the Iowa veterans home is authorized to provide.

4. For purposes of allocating moneys to the Iowa veterans home from the salary adjustment fund created in section 8.43, the Iowa veterans home shall be considered to be funded entirely with state moneys.

5. Notwithstanding section 8.33, any balance in the Iowa veterans home annual appropriation or revenues that remains unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for specified purposes of the Iowa veterans home until the close of the succeeding fiscal year.

2005 Acts, ch 175, §57; 2008 Acts, ch 1187, §65, 97; 2009 Acts, ch 26, §6; 2013 Acts, ch 36, §13
Referred to in §35D.7