801—10.47(35D) Involuntary discharge appeal. When a member appeals an involuntary discharge, the following provisions shall apply:

10.47(1)   The member shall file the appeal with the commission within 5 calendar days of receipt of the discharge notice.

10.47(2)   The commission shall conduct a contested case proceeding in accordance with the uniform rules on contested case proceedings found in 801—Chapter 8. The rules in 801—Chapter 8 are adopted by reference with the following amendment: The presiding officer must be a member of the commission and cannot be an administrative law judge with the department of inspections and appeals.

10.47(3)   The commission shall render a decision on the appeal and notify the member of the decision in writing within 10 calendar days of the filing of the appeal.

10.47(4)   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 5 calendar days of being notified in writing of the commission's decision.

10.47(5)   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 15 calendar days of the filing of the appeal with the department.

10.47(6)   The maximum time period that shall elapse between receipt by the member of the discharge notice and actual discharge shall not exceed 55 days which includes the 30-day discharge notice period and any time during which any appeals to the commission or the department of inspections and appeals are pending.

10.47(7)   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 Iowa Code chapter 17A. A member's discharge under rule 801—10.43(35D) shall not be stayed while judicial review is pending.

[**ARC 8014B**, IAB 7/29/09, effective 7/10/09; **ARC 8417B**, IAB 12/30/09, effective 2/3/10; **ARC 8635B**, IAB 3/24/10, effective 4/28/10]