

**From:** <kwhatley@adph.state.al.us>  
**To:** <rlw@nrc.gov>  
**Date:** 05/11/2001 11:45:00 AM  
**Subject:** Re: Fwd: Compatability for the deliuberte misconduct rules of Alabama

----- Forwarded by Kirksey Whatley/HCS/Alabama Department of Public Health  
on 05/11/2001 10:33 AM -----

Kirksey  
Whatley  
05/07/2001  
01:06 PM

To: RLW@nrc.gov  
cc:  
Subject: Re: Fwd: Compatability for the  
deliuberte misconduct rules of Alabama

Richard -

Following is e-mail correspondence fro John Wible, our Department Chief Attorney. Apparently John is of the opinion that the rule change, as proposed is sufficient. In fact, the existing rules were sufficient without the change. We intend to implement the change as in the copy that you have been provided.

----- Forwarded by Kirksey Whatley/HCS/Alabama Department of Public Health  
on 05/07/2001 12:53 PM -----

John Wible  
05/01/2001  
01:34 PM

To: Kirksey Whatley/HCS/Alabama Department of  
Public Health@ADPH  
cc: Dennis Blair/LEGAL/Alabama Department of  
Public Health@ADPH  
Subject: Re: Fwd: Compatability for the  
deliuberte misconduct rules of Alabama(Document  
link: Kirksey Whatley)

Kirk, it appeas to me that there is suficient authority to take enfocement action against "any person" wheter a licensee or not who violates the rules. 420-3-26-.13 so provides. That section is based on Code of Ala.1975, Section 22-14-12 ans 22-14-14. Those two sections provide that "any person" wheter a licensee or anyone else who vilates the rules can bearested and fined, enjoined by the AG or DA or sufer a civil penalty to be assessed by the Agency.

I think that answers the question. Is this clear?

Kirksey  
Whatley                      To: John Wible/LEGAL/Alabama Department of  
Public Health@ADPH  
04/25/2001                      cc:  
09:33 AM                      Subject: Fwd: Compatability for the  
deliberate misconduct rules of Alabama

John -

NRC has raised a question concerning our proposed changes to the Radiation Protection Rules. Changes were proposed to 420-3-26-.01 and referenced procedures contained in Appendix A of 420-3-26-.13. See page 486 on the rules for the enforcement section.

My question is, "Is NRC's concern valid? It appears to me that it may be so. The proposed changes are scheduled for final adoption by the Board at the May meeting. If this concern is valid, is the proper procedure to request an extension of the Board's consideration and modify 420-3-26-.13?

Sorry for this problem.

I will be out of the office from noon this Thursday until Monday May

7.

Thanks for your help.

----- Forwarded by Kirksey Whatley/HCS/Alabama Department of Public Health  
on 04/25/2001 09:14 AM -----

"Richard  
Woodruff"                      To: <kwhatley@adph.state.al.us>  
<RLW@nrc.gov>                      cc: "James Lieberman" <JXL@nrc.gov>, "Stephen  
Salomon" <SNS@nrc.gov>  
04/25/2001                      Subject: Fwd: Compatability for the  
08:56 AM                      deliberate misconduct rules of Alabama

Good morning Kirk!

Jim Lieberman (OGC) has raised the question about the proposed misconduct rule. See attached note from Jim.

Please research with your Department lawyers and either get back to me, or please feel free to contact Jim directly by e-mail and/or telephone at 301-415-2786. Thanks, rlw

Content-Transfer-Encoding: quoted-printable

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Subject to Mr. Treby's review, My comments are as follows:

I have reviewed the Alabama rule on deliberate misconduct(420-3-26-.01(11))

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. Section (11)(b) references Rule 420 -3-26-.13 which provides the State =  
with the authority to issue orders to modify licenses. It is not clear =  
that this section provides the State with the authority to take enforcement

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action against a person other than a licensee or registrant. Assuming =  
that Rule 420-3-26-.13 permits orders to be issued to licensees to remove =  
a person or permits taking some form of enforcement action against a =  
person who causes a violation of 420-3-26-.01(11)(a), Rule 420-3-26-.01(11)

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is compatible. NRC should ask the State to confirm that Rule 420-3-26-.1

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3 provides such authority.