

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 from 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 appears to me that there is sufficient authority to take enforcement action against "any person" whether 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 and 22-14-14. Those two sections provide that "any person" whether a licensee or anyone else who violates the rules can be arrested and fined, enjoined by the AG or DA or suffer a civil penalty to be assessed by the Agency.

I think that answers the question. Is this clear?

Content-Disposition: inline

Subject to Mr. Treby's review, My comments area s 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.