



LAW1199.COM NEWSLETTER™

2026 ★ ISSUE #2

safetyofficerattorneys.com ★ www.law1199.com ★ SCOTT A. O'MARA, THOMAS I. HAMPTON
BETH A. WILLIAMS, DANIEL J. PALASCIANO & JOSEPH P. HEATHMAN

A DELAY OR DENIAL CAN CREATE A PENALTY

BY: SCOTT A. O'MARA

The Workers' Compensation System has been misused by some employers/agents by treating the injured worker unfairly or badly in the delay or denial of treatment, or payments of lost wages. This can violate the California Constitution, which mandates under Article 14, Section 4, that there is to be a complete system of workers' compensation. A part of that system is to cure or relieve the effects of the injury and compensate the worker for any disability that emanates from the work injury.

In addition to this mandate by the California Constitution, it became recognized that there is a large segment of certain exposures which are unique to various occupations such as peace officers and firefighters, where the work-related exposures can create very serious medical issues that require medical care to cure or relieve the effects of the injury, or need to compensate the worker for residual impairment that may emanate.

There is special legislation that establishes certain medical conditions can be presumed to be job related (the presumption can be destroyed if proper evidence is not established). Some employers and adjusters do not accept the presumption or medical evidence provided that shows the medical condition is job related.

In the year of 2023 special legislation was enacted Labor Code §5814.3 which can set a substantial penalty against the self-insured employer or carrier that unreasonably rejects a claim or delay of access to medical care. The penalty of §5814.3 can reach a level of \$50,000.00.

It is not unusual that the behavior of delay or denial occurs. Specific legislation of §5814.3 was enacted in year 2023 to handle these situations to motivate the adjuster to grant timely medical care.

When you have filed a claim of injury with the employer, they also have parameters that must be followed regarding acceptance or denial. The acceptance or denial can be based upon the body parts to which the injury is claimed or type of injury.

The presumptions as to the compensable exposures causing injury can go beyond the last day of work depending upon the type of disease and the development or manifestation of same.

One of the areas of concern is the delay and or denial. This can cause great harm to the worker and potentially jeopardize their health, and their ability to continue with their career forever.

The goal of the penalty provisions is to try to force the employer or third party administrator to act timely and fairly. The implementation of the labor code reflects the unintentional or intentional act to delay or

