STATE OF NEW YORK

6321

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. ALCANTARA -- (at request of the Workers Compensation Board) -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to increasing penalties for dilatory tactics and broadening application of penalty for violations of rules of professional conduct

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (c) of subdivision 3 of section 25 of the workers' compensation law, as amended by chapter 61 of the laws of 1986, is amended to read as follows:

(c) The board shall keep an accurate record of all hearings held. Whenever a hearing must be continued or adjourned **for further proceedings** because the carrier or employer**, or its attorney or licensed representative, or claimant's attorney or licensed representative** has engaged in dilatory tactics or exhibited unjustified lack of preparedness, the board shall impose a penalty of [~~twenty-five~~] **fifty** dollars to be paid **by the party or attorney or representative against which it is imposed** to the fund created by subdivision two of section one hundred fifty-one of this chapter and shall in addition make an award of [~~seventy-five~~] **one hundred fifty** dollars payable to **(i)** the injured worker or his or her dependants **when the penalty is imposed against the carrier, employer or its attorney or licensed representative; or (ii) to the fund created by subdivision two of section one hundred fifty-one of this chapter when the penalty is imposed against the claimant's attorney or licensed representative**. Dilatory tactics may include but shall not be limited to: failing to subpoena medical witnesses or to secure an order to show cause as directed by the referee, failing to bring proper files, failing to appear, failing to produce witnesses or documents after they have been requested by the referee or examiner or as directed by the hearing notice, unnecessarily protracting the production of evidence,

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10058-01-7

[~~or~~] engaging in a pattern of delay which unduly delays resolution, **or violating the rules of professional conduct,** except that no penalty shall be imposed nor award made under this subdivision if the carrier or employer produces evidence sufficient to excuse its conduct to the satisfaction of the referee.

§ 2. This act shall take effect immediately.