

SELF ASSESSMENT TEST

1. There is a conclusive presumption of the continued existence of a prior permanent disability when the injured worker received an award of permanent disability benefits based on that disability, which precludes the injured worker from proving medical rehabilitation from the prior disability?

True False

2. Under the new Labor Code §4664 the employer continues to bear the burden of proof on the issue of apportionment: (1) the employer must prove the existence of the prior permanent disability award, and (2) then having established that the permanent disability on which that award was based still exists, the employer must prove the extent of the overlap, if any, between the prior disability and the current disability?

True False

3. An employee is not entitled to be compensated for permanent disability resulting from a new industrial injury to the extent that this permanent disability is overlapped by prior permanent disability, even where the prior permanent disability involves and/or includes different regions of the body, noting that an employee is entitled to be compensated for any new permanent disability directly caused by the new industrial injury?

True False

4. The employer has the burden of proving the existence of a prior award of permanent disability and evidence that it was settled by a compromise and release is sufficient proof of a prior award of permanent disability?

True False

5. A seasonal worker is entitled to temporary disability during the off-season at the minimum rate even when the parties stipulated that the injured worker did not have any off season earnings?

True False

6. Temporary disability payments end when the employee returns to work, is deemed able to return to work, or achieves permanent and stationary status and therefore becomes eligible for permanent disability?

True False

7. To properly find serious and willful there is a requirement that there be either an intentional act or omission with actual knowledge of the peril to be apprehended by the act of omission?

True False

8. Any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course or the trade, business, profession, or occupation of the owner or occupant is not deemed an employee?

True False

9. Amended findings and award which corrects clerical errors and does not alter the substance of the original decision starts a new

period for filing a petition for reconsideration?

True False

10. When the need for increased medication to control worsening hypertension was due to the stress of work and not from the natural progression of applicant's cumulative trauma heart injury, did not give rise to a new and further injury?

True False

11. The question of whether medical treatment is reasonably required to cure or relieve from the effects of the injury is a question of fact?

True False

12. The 2005 permanent disability rating schedule applies if, before January 1, 2005, there has been either (1) no comprehensive medical legal report or (2) the employer is not required to provide the notice required by Labor Code §4061 to the injured worker?

True False

13. Monetary sanctions may not be assessed against an attorney for bad faith or frivolous litigation tactics when the attorney made willfully false material misrepresentations in a Petition for Removal?

True False

14. The relevant and considered opinion of one physician, thought inconsistent with other medical opinions, may constitute substantial evidence?

True False

15. An employer strictly liable in the situation in which the employer fails to apply a self-imposed penalty if the first payment of temporary or permanent disability indemnity is not made within 14 days after the award is final?

True False

16. Where the injury, disability or indemnity rate is disputed, no Labor Code §4650(h) penalty arises if the disputed indemnity payments are made within 14 days of a final order, decision or award imposing liability for those benefits and that an order, decision or award becomes final for purposes of Labor Code §4650(d) when a defendant has exhausted all of its appellate rights or has not pursued them?

True False

17. An order approving a compromise and release agreement, without more, is not a "prior award of permanent disability" within the meaning of Labor Code §4664(b)?

True False

18. Where there is no "prior award of permanent disability" within the meaning of Labor Code §4664(b), the medical reports and other evidence relating to a prior industrial injury that was settled by a compromise and release still may be relevant in determining whether any of the permanent disability found after a subsequent industrial injury was caused by "other factors" under Labor Code §4663?

True False

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