

SELF ASSESSMENT TEST

1. The Appeals Board has the discretion to remove a case pursuant to Labor Code §5310. However, this is an extraordinary remedy available where a petitioner established that significant prejudice or irreparable harm will result if removal is not granted?

True False

2. Not every adverse interaction between a judge and a party will be sufficient to establish bias. A party's unilateral and subjective perception of bias cannot afford a basis for disqualification.

True False

3. When the claim for compensation is filed after notice of termination or layoff, and the claim is for an injury occurring prior to the time of the notice of termination or layoff, no compensation benefits shall be paid?

True False

4. A medical report which is internally inconsistent is not substantial evidence?

True False

5. The Appeals Board has the power for good cause to reopen a case and to rescind, alter or amend the original decision when a petition to reopen is filed within five years of the date of injury?

True False

6. No compensation is payable in the case of disability when the disability is caused, continued or aggravated by an unreasonable refusal to submit to medical treatment, if the risk of the treatment is based on expert medical advice and is inconsiderable in view of the seriousness of the injury?

True False

7. Labor Code §4850 salary continuation benefits for public safety officers are considered temporary disability benefits and are not included in the 104 week limitation of Labor Code §4656(c)(1)?

True False

8. Labor Code §5500.5 permits an employer liable for an award of benefits in connection with an occupational disease or cumulative trauma injury to institute proceedings for the purpose of determining the right to contribution?

True False

9. A Petition for Contribution at any time within one year after the Appeals Board has made an award of compensation benefits if the award is not a final award of compensation?

True False

10. The requirement that a party institute proceedings within one year after an award is satisfied by the filing of a Declaration of Readiness specifying the issue of contribution?

True False

11. When there is both a specific and cumulative injury, Labor Code §4663 requires apportionment of each distinct industrial injury causing permanent disability?

True False

12. Since the enactment of Labor Code §§4663 and 4664 under SB899, the Wilkinson doctrine no longer applies and Labor Code §4663 specifically requires a physician to determine what percentage of disability was caused by each industrial injury, regardless of whether any particular industrial injury occurred before or after any other particular industrial injury or injuries?

True False

13. A disputed claim for vocational rehabilitation benefits which was still pending as of January 1, 2009, was not a vested final order or award, and therefore the claim is terminated as of the date of repeal of Labor Code §139.5?

True False

14. Effective January 1, 2009, the Appeals Board lost jurisdiction over non-vested and inchoate vocational rehabilitation claims, but the Appeals Board continues to have jurisdiction under Labor Codes §§5502(b)(3) and 5803 to enforce or terminate vested rights?

True False

15. Subject matter jurisdiction over non-vested and inchoate vocational rehabilitation claims can be conferred by waiver, estoppels, or consent.

True False

16. The burden of proving overlap is part of the employer's overall burden of proving apportionment, which was not altered by Labor Code §4664(b), except to create the conclusive presumption that flows from proving the existence of a prior permanent disability?

True False

17. The employer must prove both the existence of the prior award and overlap of the permanent disability caused by the two injuries in order to obtain Labor Code §4664 apportionment. Overlap is not proven merely by showing that the second injury was to the same body part because the issue of overlap requires a consideration of the factors of disability or work limitations resulting from the two injuries, not merely the body part injured?

True False

CERTIFICATION

- This self-study activity has been approved for Minimum Continuing Legal Education credit by the State Bar of California in the amount of one hour.
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