

## SELF ASSESSMENT TEST

1. An expert medical opinion does not constitute substantial evidence if based on incorrect facts or legal theory or on surmise or conjecture. (See *Chu v. Workers' Comp. Appeals Bd.* (1996) 49 Cal.App.4th 1176.)  
 True  False

2. The Fifth District Court of Appeal has rejected the argument that the meaning of Labor Codes §§4663 and 4664 limits permanent disability awards to the percentage of permanent disability directly caused by an injury and therefore the percentage of permanent disability previously awarded must be deducted to arrive at the permanent disability directly caused by the new injury.  
 True  False

3. The hirer as landowner may be independently liable to the contractor's employee, even if it does not retain control over the work, if (1) it knows or reasonably should know of a concealed, pre-existing hazardous condition on its premises; (2) the contractor does not know and could not reasonably ascertain the condition; and (3) the landowner fails to warn the contractor.  
 True  False

4. Although a trip that has components of both business and pleasure may give rise to a compensable injury, the business element must be integral to the trip. The fact that an employee performs work during a personal trip will transform the journey into part of the "course of employment."  
 True  False

5. An employer is entitled to fix the temporal spatial limitations of a business trip, and an employee who chooses to extend a business trip for his or her personal convenience will lose the protection of workers' compensation.  
 True  False

6. Where an issue is exclusively a matter of scientific medical knowledge, expert evidence is essential to sustain a commission finding; lay testimony or opinion in support of it can be considered substantial evidence.  
 True  False

7. With respect to police officers primarily engaged in active law enforcement activities, an industrial injury includes cancer that develops or manifests itself while the police officer is in service if the police officer can demonstrate exposure, while in service, to a known carcinogen.  
 True  False

8. An employer may be liable for workers' compensation benefits, and an employee's death may be deemed to have been proximately caused by the employment where substantial evidence, in light of the entire record, shows that a pre-existing or nonindustrial condition is aggravated by the employment such that the aggravation hastens or produces the injured worker's death.  
 True  False

9. For an injury to occur "in the course of employment," it must occur while the employee is performing services growing out of and incidental to employment. Such acts are those expressly or impliedly permitted in the employment's employment contract.  
 True  False

10. Risk of injury from a violent crime occurring on the premises of the applicant's employment is foreseeable, even if the actual

subject of the robbery is a lessee of the employer and not the employer itself.  
 True  False

11. When an employee is injured off-duty while participating in recreational, social or athletic activity, the injuries are excluded for workers' compensation coverage, except when such activities are a reasonable expectancy of, or are expressly or impliedly required by the employment.  
 True  False

12. It is a defense to a workers' compensation claim that the employee was negligent or reckless while acting within the course of employment.  
 True  False

13. An injury occurring during the course of employment that is an unauthorized departure is compensable, while an injury during the course of employment that is the performance of a job duty in an unauthorized manner is not compensable.  
 True  False

14. A medical report must set forth the basis for the physician's opinion on apportionment, not just the physician's conclusions. A physician's conclusion is to furnish a basis for a finding on apportionment.  
 True  False

15. Temporary disability benefits that otherwise would be payable to an inmate of a state penal or correctional institution during incarceration based on an injury sustained prior to incarceration shall be paid to the inmate's dependents. If the inmate has no dependents, temporary disability benefits that otherwise would be payable during the inmate's incarceration shall be paid to the State Treasury to the credit of the Uninsured Employer's Fund.  
 True  False

16. California Insurance Guarantee Association (CIGA) may not claim a credit for uninsured motorist benefits received by the injured worker for the same incident on which workers' compensation benefits are paid.  
 True  False

17. Discovery closes on the date of the Mandatory Settlement Conference. Medical reports discovered or developed after the MSC are not admissible unless the proponent of the reports provides a showing of good cause why the reports could not have been obtained prior to the MSC in the exercise of due diligence.  
 True  False

18. An injured worker may receive temporary disability indemnity and permanent disability indemnity at the same time.  
 True  False

19. Although Labor Code §139.5(d)(2) allows an injured worker the option to request advances of permanent disability indemnity, when such a request is not made, the obligation to begin payment of permanent disability indemnity starts on the day following the date of last payment of VRMA.  
 True  False

20. Labor Code §4544(a) enacted by SB 899 provides a conclusive presumption that the injured worker retains the level of permanent disability previously awarded. Nothing in that statute or its legislative history shows any intention to bar proof that the prior permanent disability has increased.  
 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.
- The State Bar of California certified that this activity conforms to the standards for approved education activities prescribed by the Rules and Regulations of the State Bar of California governing Minimum Continuing Legal Education (MCLE).

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