

SELF ASSESSMENT TEST

1. A petition for reconsideration is deemed denied if the Appeals Board fails to act within 60 days of the date of filing of the petition for reconsideration.

True False

2. Reopening of a decision for good cause under Labor Code section 5803 may be used to substitute for a petition for reconsideration.

True False

3. EDD's lien is not a "covered claim" that CIGA is required to pay.

True False

4. When EDD's payment period corresponds to an injured worker's temporary disability period or vocational rehabilitation maintenance allowance period, EDD is entitled to file a lien for reimbursement if it is determined by the Workers' Compensation Appeals Board that the injured worker is entitled to temporary disability or vocational rehabilitation maintenance allowance during that period.

True False

5. When determining the amount of credit to which an employer or its insurance carrier is entitled for an injured worker's recovery from a third party, the WCJ is bound by the terms adopted by the injured worker and the settling third party.

True False

6. The Appeals Board has equitable power to reallocate the proceeds of a third party settlement in two situations: (1) when an injured employee and his or her spouse have colluded in a civil case to make a bad faith and/or fraudulent allocation of the settlement proceeds in order to defeat the employer's third party credit rights, and (2) whenever the employee's spouse has received a disproportionate settlement.

True False

7. This issue was not raised at trial is waived and can not be raised in later proceedings.

True False

8. There is a cause of action for breach of the covenant of good faith and fair dealing based on a workers' compensation carrier's failure to properly pursue subrogation.

True False

9. An order approving a compromise and release agreement is a "prior award of permanent disability" within the meaning of Labor Code §4664(b).

True False

10. 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 to 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

11. The concept of medical rehabilitation from a prior industrial disability remains viable under Labor Code §4663; however, even if an injured employee has medically rehabilitated from a prior industrial disability, this does not necessarily preclude a prior industrial injury

from being an "other factor" causing the employee's present disability.

True False

12. In certain cases involving a cumulative injury, a medical opinion that the worker's disability is work-related is not necessary to support a finding that an applicant, in the exercise of reasonable diligence, should have known of that relationship.

True False

13. When an employer has knowledge that an employee has suffered occupational injury and fails to give the employee notice concerning workers' compensation benefits, the employer may be precluded from relying on the defense of statute of limitations.

True False

14. An employer is guilty of violation of Labor Code §132a for terminating an employee who has sustained a compensable injury when there is no work available that the employee could perform without risk of either re-injury or further injury.

True False

15. An employer does not violate Labor Code §132a by refusing to make special arrangements for another job for an employee when there are no other jobs available that the employee is capable of performing, or where the employee would require extensive retraining in order to be able to perform any job that is available.

True False

16. A work restriction of "ready access to bathroom facilities" was an appropriate work restriction recommended by the treating physician was a standard DEU-recognized, unscheduled work restriction and constituted a reasonable exercise of discretion.

True False

17. Title 8 §10890(a) states that each petition to compel attendance shall be accompanied by a proof of service showing that the petition was served upon the injured worker, applicant's attorney, and any other liable defendants. Notice to the applicant and applicant's attorney of the date when the defendant is walking through the petition is not required, only notice that the defendant is requesting a petition to compel.

True False

18. A nolo contendere plea to a charge of workers' compensation fraud is the same as a conviction of Insurance Code §1871.4.

True False

19. It is essential that an employer inform his employees of workers' compensation benefits and specifically inform the employee as to the time limits for filing workers' compensation claims.

True False

20. Labor Code §4663 does not preclude a showing that, prior to the injury or injuries for which the employee is now claiming permanent disability, he or she had medically rehabilitated from the disabling effects of an earlier industrial or non-industrial condition.

True False

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