

SELF ASSESSMENT TEST

1. A stipulation of the parties that newly enacted Labor Code §§4663 and 4664, as amended and enacted by SB899 are not applicable, are overridden by appellate decisions in *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 7 WCAB Rptr. 10,083 and *Rio Linda Union School District v. Workers' Comp. Appeals Bd. (Scheftner)* (2005) 131 Cal.App.4th 517, 7 WCAB Rptr. 10,227?
 True False

2. A consequential psychiatric injury is compensable only if it is more than half attributable to the underlying physical industrial injury?
 True False

3. The employer takes the employee as he finds him at the time of employment and that the employee will not be denied compensation simply because he is more susceptible to disability due to pre-existing personality traits than another worker?
 True False

4. Applicant's attorney reviewed defendants' surveillance video in preparation for trial, is entitled to attorneys' fees pursuant to Labor Code §5710?
 True False

5. The phrase "in any manner discriminates" as set forth in Labor Code §132a comprehensively includes other ways an employer may commit discrimination not covered by discharge or threatening to discharge?
 True False

6. To satisfy the six month employment requirement, an employee claiming compensable consequence psychiatric injury need only establish that she was employed by the employer against whom the claim is made for a total of six months, rather than for six months at the time of the initial orthopedic injury?
 True False

7. Reconsideration is available only to challenge a "final order, decision or award. To be "final" an order, decision or award, must determine a substantive right or liability of those involved in the case?
 True False

8. Reconsideration is not available to challenge interim orders, which do not decide a threshold issue such as intermediate procedural or evidentiary decisions?
 True False

9. An order to develop the record is an order. An order to develop the record is an interim order not subject to reconsideration subject to reconsideration?
 True False

10. The new apportionment provisions of SB 899 apply to the issue of increased permanent disability alleged in any petition

to reopen that was pending at the time of the legislative enactment on April 19, 2004, regardless of the date of injury?
 True False

11. An injured worker's claim for compensation is barred when the injury arises out of an altercation in which the injured worker is the initial physical aggressor?
 True False

12. An "initial physical aggressor is one who first engages in physical conduct which a reasonable man would perceive to be a real, present and apparent threat of bodily harm?
 True False

13. An "initial physical aggressor is one who first engages in physical conduct which a reasonable man would perceive to be a real, present and apparent threat of bodily harm?
 True False

14. Before the repeal of former Labor Code §4750 and continuing with the enactment of the new section 4664, 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?
 True False

15. In order for the special risk exception to the going and coming rule to apply but for the employment the injured worker would not have been where he was when he was injured and the risk to which applicant was subjected by reason of the employment was distinctive in nature or quantitatively greater than the risk to the general public?
 True False

16. A possible cause becomes probable only when, in the absence of other reasonable causal explanations, it becomes more likely than not that the injury was a result of its action?
 True False

17. Even if applicant was not claiming a psychiatric injury as a result of her workers' compensation injury claim, her current Social Security psychiatric disability is relevant to the issue of apportionment relating to "other factors," which include pathology, asymptomatic prior conditions, retroactive prophylactic work preclusions and the like?
 True False

18. The new apportionment provisions cannot be used to recalculate the level of permanent disability, or the presence or absence of apportionment, determined under a final order, decision, or award issued before April 19, 2004?
 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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