

SELF ASSESSMENT TEST

1. The prior finding that an earlier injury had not become permanent and stationary before the second injury and the further finding that Labor Code §4750 was not applicable constitutes a final order precluding application of the new apportionment provisions of Labor Code §§4663 and 4664, if otherwise applicable under Senate Bill 899?
 True False

2. When the parties stipulated that the employer had a duty to send out the temporary disability terminating letter arose in 2004 (because the injured worker was off work in 2004 due to an industrial injury and returned to work in 2004), the requirements under Labor Code §4660(d) were met and the old rating schedule applied?
 True False

3. The date of injury in cases of occupational diseases or cumulative injuries is that date on which the employee first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that convergence of compensable temporary disability or permanent disability, and the employee's knowledge or when he or she should have known that the disability was work-related?
 True False

4. The liability for occupational disease or cumulative injury shall be limited to those employers who employed the employee during a period of one year immediately preceding either the date of injury, as determined pursuant to Labor Code §5412, or the last day on which the employee was employed in an occupation exposing him or her to the hazards of the occupational disease or cumulative injury whichever occurs first?
 True False

5. Appeals Board findings on factual questions are conclusive if supported by substantial evidence and will not be disturbed on appeal?
 True False

6. An injured worker's period of temporary disability ends and the condition is considered permanent and stationary or at maximum medical improvement when no substantial change for the better or worse is anticipated. The fact that a condition is subject to periodic changes for better or worse may still be considered permanent and stationary?
 True False

7. An employee's horseplay causing injury does not arise out of the employment. Even if the injury occurred during the work hours and on the premises of the employer, the injury must be related to the job to be compensable?
 True False

8. A joint award is not be appropriate in successive injury cases when a reporting physician is unable to medically parcel out the degree to which each injury is casually contributing to the employer's overall permanent disability?
 True False

9. The continued application of the rule in *Wilkinson* (i.e., basically allowing a combined award of permanent disability in successive injuries) is no consistent with the new apportionment rules based on causation. Under the new statutory scheme requires apportionment to each cause of a permanent disability?
 True False

10. The injured worker has the burden of proof on a claim of serious and willful misconduct by the employer?
 True False

11. The injured worker has the burden of proving a detrimental act and its relation to the work-related injury, i.e., that the employer engaged in conduct detrimental to the employee as a result of the work-related injury?
 True False

12. Labor Code §4660(d) requires a statement in the treating physician's reports that the disability is permanent in order for the 1997 rating schedule to apply?
 True False

13. Labor Code §132a does not compel an employer to ignore the realities of doing business by reemploying unqualified employees for whom positions are no longer available?
 True False

14. For an employee to merely show he suffered an industrial injury and that he suffered some detrimental consequences as a result is sufficient to establish a prima facie case of discrimination within the meaning of Labor Code §132a?
 True False

15. To prevail on a discrimination claim pursuant to Labor Code §132a The employee not only must show detriment but also show that he was singled out for disadvantageous treatment because of his industrial injury?
 True False

16. An employer can defend against a discrimination claim by establishing that its action, even though triggered by an employee's industrial injury, was necessitated by the realities of doing business?
 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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