



LEGAL SPECIALIST EXAMINATION

Preparation Packet

Examination Date: October 22, 2019

Area of Specialty:

WORKERS' COMPENSATION LAW

This packet contains key information you will need to prepare for the Legal Specialist Examination:

- Examination Action Plan
- Exam specifications listing topics that may be tested
- Free sample essay questions (multiple-choice questions are not released)

For full details, please visit www.californiaspecialist.org.

2019 LEGAL SPECIALIST EXAMINATION ACTION PLAN

A. Start Today:

1. **Register** for the legal specialist examination today on the [Admissions Information Management System \(AIMS\) portal](#). Register by **September 1** to take advantage of reduced pricing. For an additional fee, you can add the option to take the essay portion of the exam using your laptop computer. Registration closes on **October 1**.
2. **Review** this packet for an overview and visit the [Becoming a Certified Specialist page](#) for eligibility requirements and current examination information.

B. Know the Examination:

1. **Format:** 4-hour morning session, 8 essays; approximate 90-minute lunch; 2.5-hour afternoon session, 75 multiple-choice questions.
2. **Examination topics:** See enclosed examination specifications.
3. **Examination practice:** See enclosed sample essays. No multiple-choice questions are released for practice.
4. **Optional preparation course(s):** The State Bar of California and the Department of Legal Specialization do not teach any examination preparation classes, nor are they affiliated with any commercial preparation classes.
5. **Other certification requirements:** Review the other task, education and experience requirements in the post-examination application. You may have already met many of the requirements, or you can continue to meet them through January 31, 2023.

C. Prepare for Examination Day

1. **Arrive by 7:00 a.m.** so that you have enough time to find your assigned seat and start your laptop (if you are using one) when the examination begins at 7:30 a.m.
2. **Items allowed in the examination room:**
You are only allowed to bring the items listed in the examination bulletin into the examination room. Please review the list before the examination.

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WORKERS' COMPENSATION LAW
Examination Specifications**

Purpose of the Examination: The Workers' Compensation Law Examination consists of a combination of essay and multiple-choice questions. It is designed to verify the applicant's knowledge of and proficiency in the usual legal procedures and substantive law that should be common to specialists in the field as represented by the skills listed below. We recognize that these skills are interrelated, which may require that you apply several skills in responding to a single examination question. Also, the order of the skills does not reflect their relative importance, nor does the skill sequence represent an implied order of their application in practice.

Your answers to the examination questions should reflect your ability to identify and resolve issues, apply workers' compensation law to the facts given, and show knowledge and understanding of the pertinent principles and theories of law, their relationship to each other, and their qualifications and limitations. Of primary importance for the essay questions will be the quality of your analysis and explanation.

Knowledge of the following fundamental lawyering skills may be assessed:

<p>Subject Area 1: Professional Responsibility</p> <ul style="list-style-type: none"> 1.1 Ethical duties to client, opposing counsel and the Court 1.2 Bases for sanctions 1.3 Fee agreements/Bases for fees 1.4 Prohibited referrals and inducements 1.5 Dual representation/conflicts of interest 1.6 California Rules of Professional Conduct 	<p>Subject Area 2: Claim Evaluation: Remedies & Defenses</p> <ul style="list-style-type: none"> 2.1 Specific injury(ies) and cumulative trauma 2.2 Relevant time limits 2.3 Effect of injury date on benefits 2.4 Types of benefits 2.5 Identification of relevant issues 2.6 Identification and evaluation of records and documents 2.7 Benefit notices 2.8 Defenses to compensability 2.9 Insurance coverage 2.10 Subsequent Injuries Benefits Trust Fund 2.11 Uninsured Employers Benefits Trust Fund 2.12 Death benefits/dependency 2.13 Related civil remedies 2.14 Serious and willful misconduct 2.15 Labor Code § 132a 2.16 Presumptions and Benefits for public safety personnel
<p>Subject Area 3: Practice & Procedures (Trial & Appellate)</p> <ul style="list-style-type: none"> 3.1 Jurisdiction/venue 3.2 Discovery & investigation 3.3 Pre-trial & trial procedures 3.4 Expert and lay witnesses 3.5 Appropriate evidence/admissibility 3.6 Making of record for reconsideration 3.7 Post-trial remedies/Reconsideration 3.8 Petitions for Removal (Labor Code § 5310) 	<ul style="list-style-type: none"> 3.9 Writs 3.10 Affirmative Defenses 3.11 Liens 3.12 Settlements 3.13 Arbitration and Mediation 3.14 Return-to-work-fund/Supplemental Job Displacement Benefit 3.15 Penalties, interest and increases to benefits 3.16 Petition to reopen

Subject Area 4: Medical Knowledge & Issues

- 4.1 Anatomy/physiology
- 4.2 Terminology
- 4.3 Industrial diseases
- 4.4 Treatment guidelines / UR / Independent Medical Review (IMR) / MPN / Medical Treatment Utilization Schedule (MTUS).
- 4.5 Determination of medical issues (AME/QME)

Subject Area 5: Disability Evaluation

- 5.1 Permanent Disability/Description of Disability
- 5.2 Psyche/Work function Impairments/Global Assessment of Function (GAF)
- 5.3 Causation of disability/Appportionment/Burden of proof
- 5.4 Rating instructions
- 5.5 Mechanics of rating disability

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Sample Legal Specialist Examination Essay Questions**

Below are actual questions from past examinations. These questions were designed to be read and answered within 45 minutes, though current examination questions are designed to be read and answered in 30 minutes.

Sample Legal Specialist Examination Essay Question #1

Applicant sustained an injury at work to his low back on April 3, 1997. Shortly thereafter, he retained Attorney who filed an application for adjudication of claim on October 3, 1997. Applicant was examined by an AME in orthopedics, who found his condition compensable.

Applicant subsequently discharged Attorney after which he amended his claim to include injury to the neck with headaches. He filed an amended employee's claim for workers' compensation benefits (DWC1). The insurance company denied the neck/headaches injury.

Since Applicant was not represented by an attorney, he selected a neurologist from a QME panel, who found the neck/headaches compensable. On March 4, 2001, a Stipulated Findings and Award was approved based upon the orthopedic AME and neurologic QME reports.

The pro per Applicant filed a timely Petition to Reopen alleging increased disability to the neck, low back, and a torn meniscus to the right knee as a result of a fall due to a weakened low back. Applicant's treating orthopedist found increased disability in the low back and concluded the knee injury was a result of the weakened low back. The QME (neurologist) also found increased disability. Subsequently, a mandatory settlement conference was held at which time the judge issued an order that Applicant be re-examined by the orthopedic AME. The AME refused to re-examine Applicant because he was in pro per.

- A. Can the judge order the AME to re-examine Applicant? Discuss.**
- B. Can the judge's order be appealed? Discuss.**

Sample Legal Specialist Examination Essay Question #2

Applicant is a flight attendant with Employer. He was hired in St. Louis, Missouri in 1998, and flew out of St. Louis for six months until moving to California with his family. After moving to California, he continued to initiate his flights from St. Louis, and commuted free of charge from California to St. Louis.

Over the Christmas holiday in 2001, Applicant was assigned to work a flight from St. Louis to Maui, Hawaii, and decided to take his family, who were allowed to fly with him at a discounted fare. He had been advised that he would have a 48-hour layover in Maui before he was required to work the return flight to California.

Upon arrival at their hotel in Maui, Applicant rented a car at his own expense and took his family on a snorkeling excursion at a beach located about an hour's drive from the hotel. During the drive back, his vehicle was rear-ended by a truck owned by the Maui Sugar Company. Applicant sustained serious injuries and filed his workers' compensation claim in California.

- A. What are Applicant's remedies? Discuss.**

- B. What are Employer's defenses, if any? Discuss.**

Sample Legal Specialist Examination Essay Question #3

Applicant worked as a police officer for City. In 1995 he sustained a back injury and that same year Stipulated to an Award of 15% PD and future medical treatment. In 1996 he was diagnosed with borderline hypertension that was controlled by diet only.

In 2004, Applicant re-injured his back in the course and scope of employment. As part of his therapy, he was prescribed various back strengthening exercises at Gym. While doing these exercises, Applicant suffered a heart attack, necessitating bypass surgery.

- A. What rights and remedies, if any, does Applicant have, and against whom? Discuss.**
- B. Discuss the issue of apportionment.**

Sample Legal Specialist Examination Essay Question #4

Applicant worked as an associate attorney for a highly reputable law firm. The partners at the firm strongly encouraged Applicant to take as many continuing education classes as possible. They also encouraged her to recruit new clients. To meet both goals, she registered for a five-day trip to Mexico with a local attorney association during the Memorial Day weekend. The trip offered legal seminars as well as several social events. The firm did not pay for the trip but allowed her to take time off work to attend the trip.

During the trip, on May 30, 2005, Applicant and a few members of the seminar group obtained a taxi to go into town for dinner. While on the way to town, the taxi struck another vehicle causing Applicant to injure her neck and shoulders. She was immediately taken to an emergency room for minor treatment. She was released from the emergency room. She later received a few sessions of physical therapy prior to leaving Mexico. Applicant was required to pay for the medical treatment while in Mexico.

On June 5, 2005, Applicant filed a claim for workers' compensation benefits and was directed to her employer's medical provider network. She advised the insurance carrier that she wanted to seek treatment with her pre-designated physician, Doctor. Doctor had never treated Applicant, as he recently took over her regular physician's medical practice. Doctor recommended three months of physical therapy.

- A. Is Applicant's claim compensable? Discuss.**
- B. Must the insurance carrier provide medical treatment whether the claim is accepted or denied? Discuss.**
- C. Does the insurance company have to authorize the treatment recommended by Doctor? Discuss.**