

QME FALL ZOOMINAR SERIES

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- 1983 - UC Santa Cruz: BA Cell Biology
- 1988 - Palmer West College of Chiropractic - DC
- 1995 - Qualified Medical Evaluator
- 2011 - DWC Continuing Education Provider
- 2013 - State Bar Board of Legal Specialization Workers Compensation Law Continuing Education Provider
- 2018 - President - QME Data Works Virtual QME Office
- 2021 - President - California Chiropractic Evaluators

UPCOMING SESSIONS



- 10/20/21 - AOE/COE IN THE POST EMPLOYMENT CT CLAIM
- 10/27/21 - QME'S CLINICAL ROUNDS
- 11/03/21 - TRUTH AND LIES IN THE FACE TO FACE EVALUATION
- 11/10/21 - PROFIT LEAKS IN THE QME EVALUATION - **NO CE CREDITS!!**
- 11/17/21 - HEADS AND TAILS ON PERMANENT IMPAIRMENT RATINGS
- 12/01/21 - THE "ANYTHING GOES" RULES OF APPORTIONMENT
- 12/08/21 - STATS/TRENDS/AND DISTURBING FACTS
- 12/15/21 - YOUR FINAL REPORT IS TERRIBLE AND YOU SHOULD NOT SIGN IT
- JANUARY 2022 - QME PRACTICE BUILDING SERIES - **NO CE CREDITS!!**

UPCOMING SESSIONS



- LABOR CODE 3208 - INJURY
- LABOR CODE 3600 - CONDITIONS OF COMPENSATION LIABILITY
- LABOR CODES 5400-5402
- LC 5411 - DATE OF INJURY FOR SPECIFIC INJURIES
- LC 5412 - DATE OF INJURY FOR CUMULATIVE TRAUMA INJURIES

QME UPDATE 2021 - SECRETS TO YOUR SUCCESS

New Medical
Legal Fee
Schedule

Passage of
Senate Bill
788 - LC 4663

Lindh
Kite & Others
Wiest -

Anti-Bias Era

May 2021

Ongoing

October 2021

Apr. 2021

June 2021

Case Law
Updates

Forward

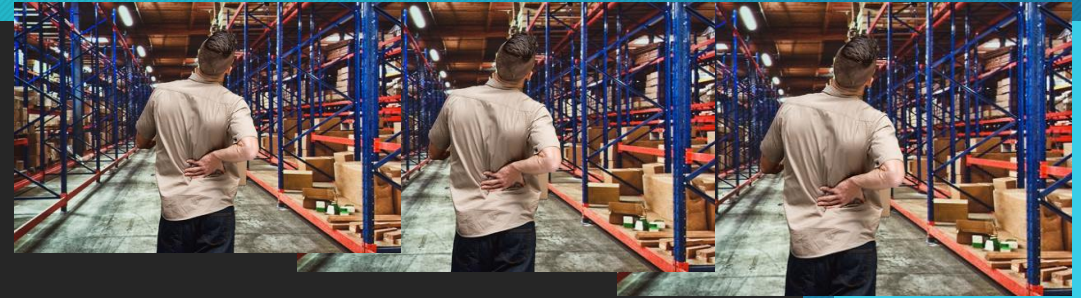
New Proposed
Changes to
QME Regs.

Report
Quality
Committee
Findings

COVID
Extensions -
01/15/22



CUMULATIVE TRAUMA (CT) AND THE QME



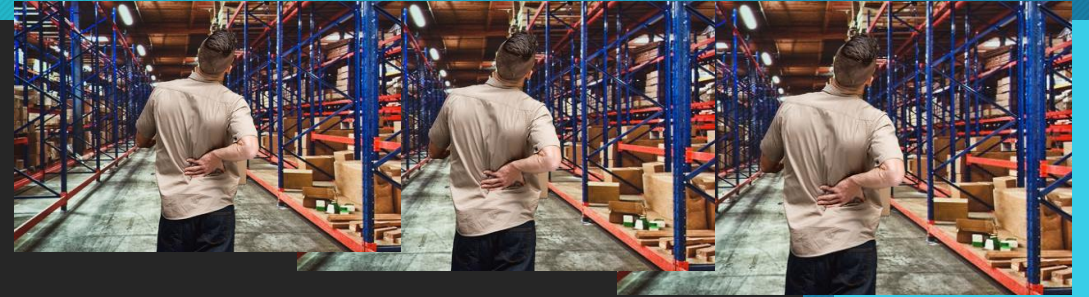
- *The World of Cumulative Trauma Claims - WCIRB 2018*
 - The proportion of claims involving allegations of CT has increased sharply.
 - CT claims involve a long delay between the injury occurrence and the time of filing of the claim.
 - CT can have exposure over years/decades - liability for CT claims is spread over the last year of injurious exposure.
 - CT claims are more likely to involve multiple body parts.
 - CT claims more likely to involve representation by an Applicant Attorney
 - CT claims more likely to include frictional costs - such as liens, and **medical legal costs.**

CUMULATIVE TRAUMA (CT) AND THE QME



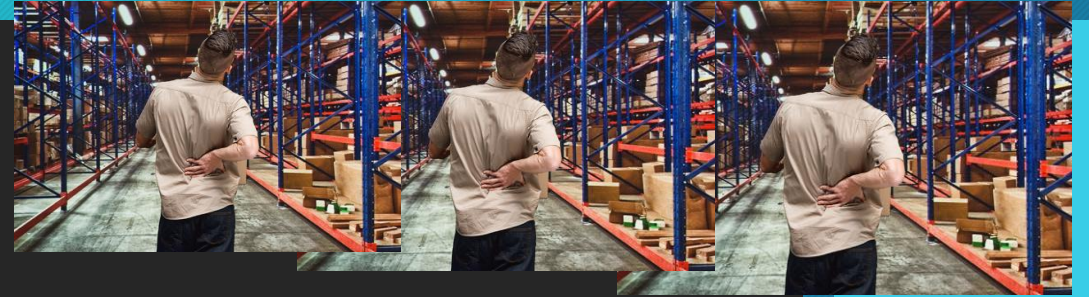
- What is an “injury?”
- Labor Code 3208
- Any injury or disease arising out of employment
- Any derivative injury caused by treatment of an injury arising out of employment
- Labor Code 3208.05 - Any reaction to, or side effect from *preventive health care* the employer provides to health care workers.

CUMULATIVE TRAUMA (CT) AND THE QME



- LC 3600 - Conditions of Compensation Liability
- (1) - (3) Accepted Injury Conditions
- (4) Where the injury is not caused by the intoxication, by alcohol or the unlawful use of a controlled substance, of the injured employee.
- (5) Where the injury is not intentionally self-inflicted.
- (6) Where the employee has not willfully and deliberately caused his or her own death.

CUMULATIVE TRAUMA (CT) AND THE QME



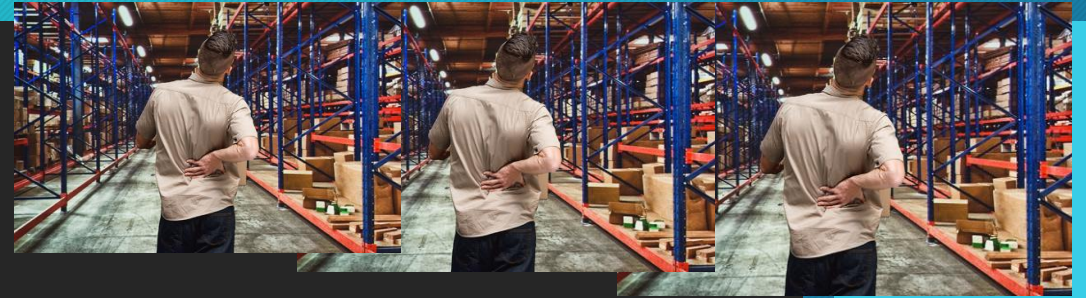
- (7) Where the injury **does not** arise out of an altercation in which the injured employee is the initial physical aggressor.
- (8) Where the injury **is not** caused by the commission of a felony, or a crime which is punishable as specified in subdivision (b) of Section 17 of the Penal Code, by the injured employee, for which he or she has been convicted.
- (9) Where the injury **does not** arise out of voluntary participation in any off-duty recreational, social, or athletic activity not constituting part of the employee's work-related duties, except where these activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment.

CUMULATIVE TRAUMA (CT) AND THE QME



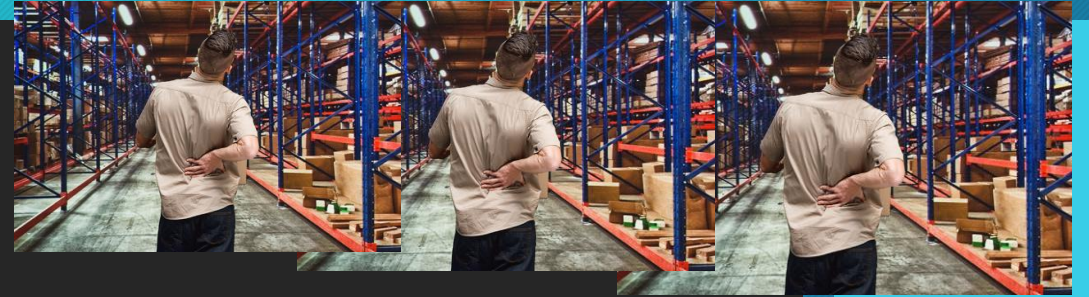
- LC 3600 Conditions of Compensation Liability
- (10) Except for psychiatric injuries....., where the claim for compensation is filed after notice of termination or layoff, including **voluntary layoff**, and the claim is for an injury occurring prior to the time of notice of termination or layoff, NO COMPENSATION SHALL BE PAID unless the **employee** demonstrates by a preponderance of the evidence that one or more of the following conditions (**exceptions**) apply:

CUMULATIVE TRAUMA (CT) AND THE QME



- LC 3600 (10) “Exceptions”
 - (A) The employer has notice of the injury, as provided under Chapter 2 (commencing with Section 5400), prior to the notice of termination or layoff.
 - What constitutes “notice?” Must be communicated to a person in authority:
 - Communication to Union Representative is insufficient
 - Communication to non-managerial co-employee with not suffice
 - The employer has a duty to investigate the injury when it is “reasonably certain” that an injury is being asserted.

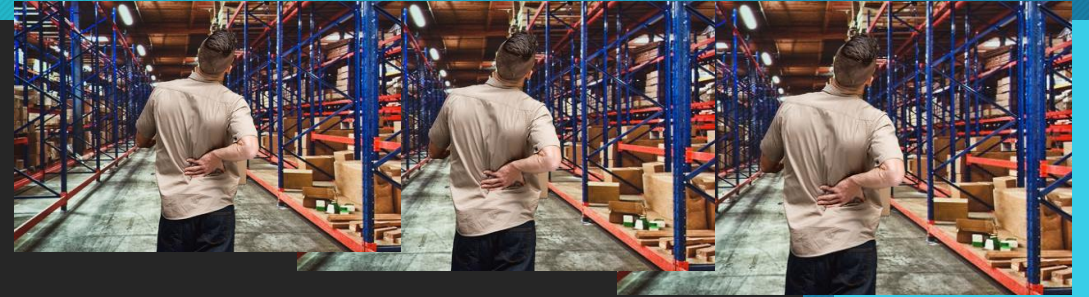
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- **LC 3600 (10) “Exceptions”**

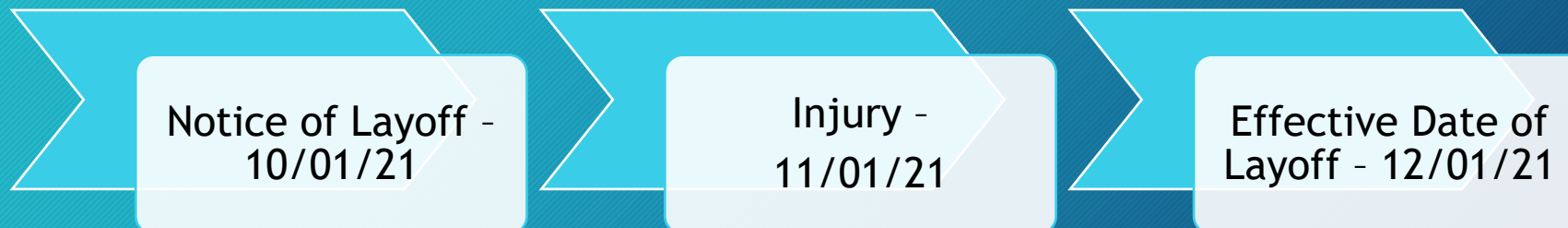
- (B) The employee’s medical records, existing prior to the notice of termination or layoff, contain evidence of the injury.
 - - The existence of pre-termination medical records showing an injury is sufficient, even if the records do not establish industrial causation..
 - The “evidence of injury” existing prior to the notice of termination need only be evidence of the employee’s medical condition, and need not be evidence of the causal connection between the applicant’s condition, and his employment.

CUMULATIVE TRAUMA (CT) AND THE QME

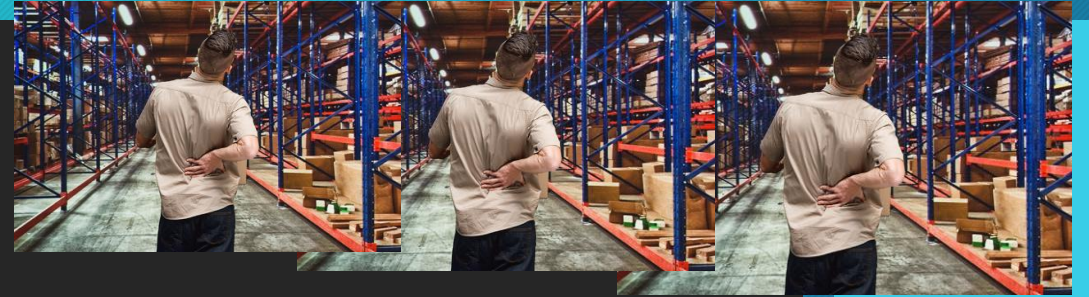


- LC 3600 (10) “Exceptions”

- (C) The date of injury, as specified in **Section 5411**, is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff.
 - This exception applies to specific injuries (i.e. neither cumulative trauma nor occupational diseases) that occurred before the effective date of termination or lay-off.

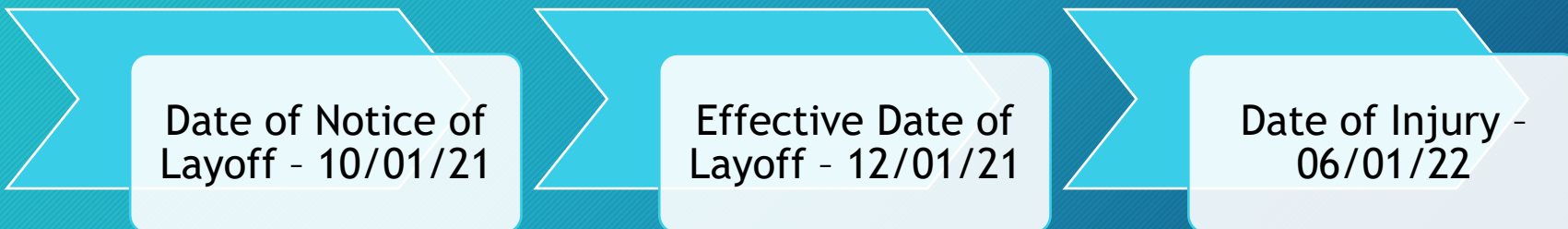


CUMULATIVE TRAUMA (CT) AND THE QME



- **LC 3600 (10) “Exceptions”**

- (D) The date of injury, as specified in Section 5412, is subsequent to the date of the notice of termination or layoff.

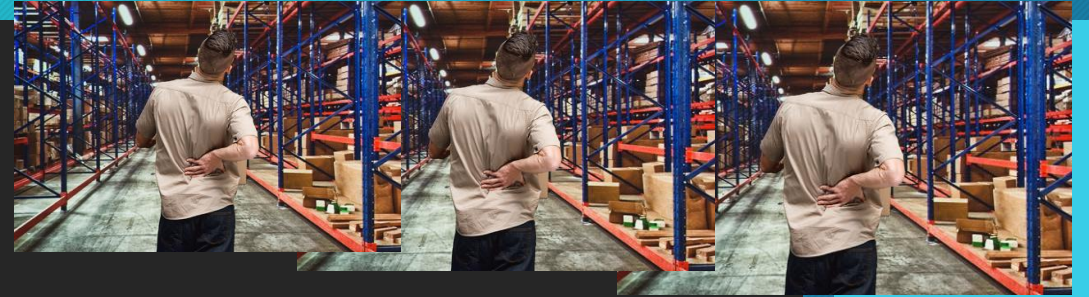


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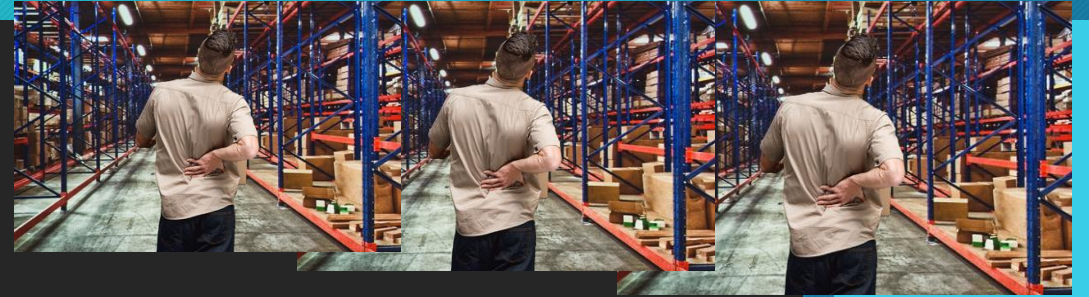
- AOE/COE in the Denied Post Employment CT Claim
- Specific vs. **Cumulative** Trauma Injury
- Specific: Occurs as the result of a single incident or exposure.
- **Cumulative** Injury Labor Code 3208.1: Results from repetitive physical or mental trauma over a period of time the combined effect of which causes any disability, or need for medical treatment.

CUMULATIVE TRAUMA (CT) AND THE QME

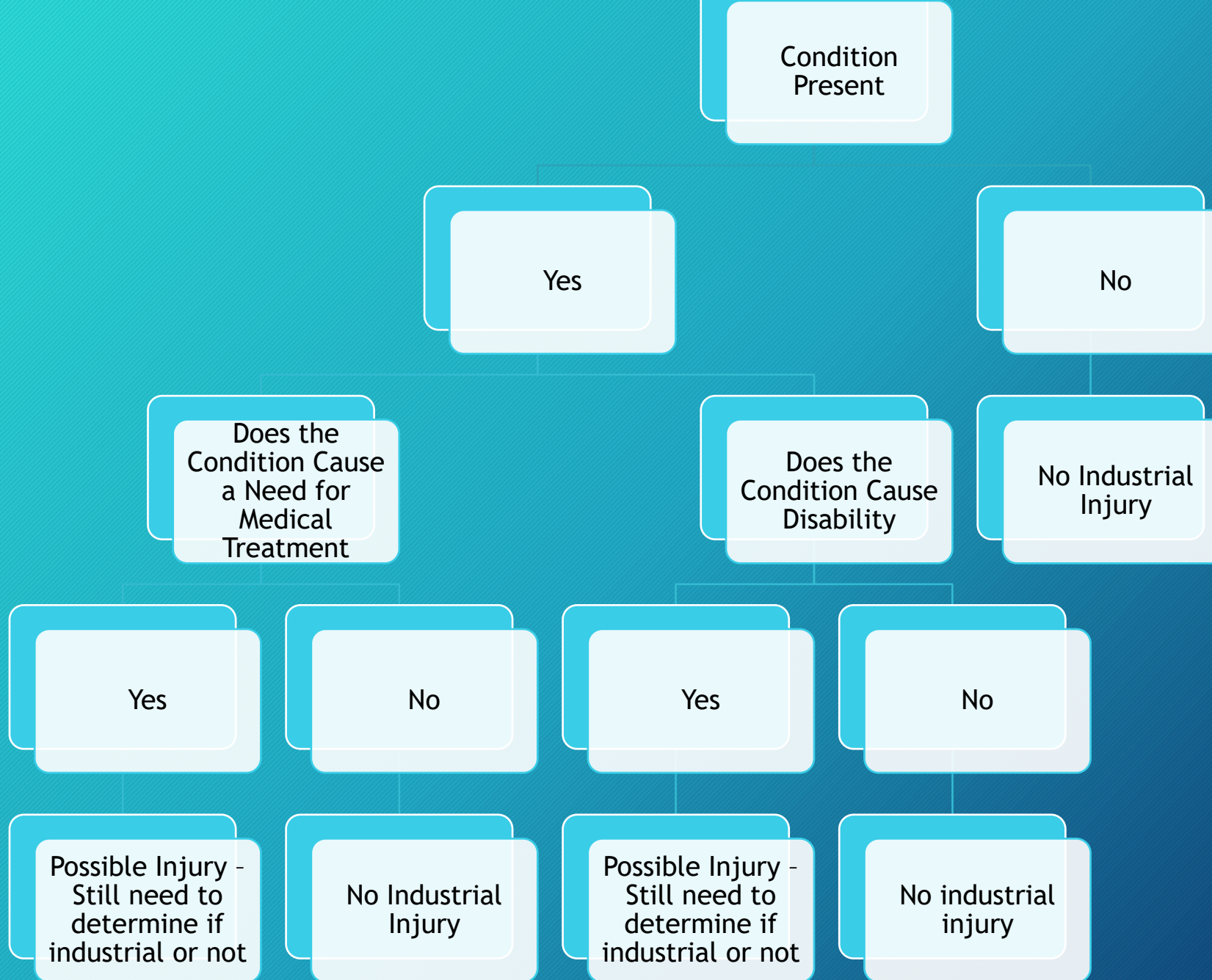


- The Critical Question.....? Is it reasonably medically probable that the symptoms that the examinee describes could be due to an industrial **injury** to have occurred in the manner (mechanism of injury) described by the examinee.....?
- What is an “injury?”

CUMULATIVE TRAUMA (CT) AND THE QME



- 2016 PHYSICIAN'S GUIDE:
- What is an injury? “In order for a **condition** to be considered an **injury**, it must
- Must have a “**condition**.”
- What is a **condition**? - 1) Bona fide, 2) Symptomatic, 3) Diagnosable
- “**Condition**” must cause:
 - Disability
 - And/or - need for Medical Treatment (beyond first aid)



QME UPDATE 2021 - YOUR SECRETS TO SUCCESS

- The Difficult Decision of AOE/COE

QME UPDATE 2021 - YOUR SECRETS TO SUCCESS

- The QME's Clinical Rounds

QME UPDATE 2021 - YOUR SECRETS TO SUCCESS

