

McWay_Chapter01_Exam

MULTIPLE CHOICE

1. Standards for human behavior are established through ____.

- a. concepts
- b. laws
- c. moral principles
- d. societal ideals

ANS: B PTS: 1

2. Under civil law, the burden of proof is described as a ____.

- a. determination to be met by the presiding judge at the trial
- b. meeting of the minds where at least two persons or entities must reach an agreement
- c. preponderance of the evidence, which is defined as “more likely than not”
- d. requirement that something be proven beyond a reasonable doubt

ANS: C PTS: 1

3. Which statement is associated with civil law?

- a. Defendants who do not pay court-assessed damages are imprisoned.
- b. It is an area of law and justice that attempts to settle disputes among individuals.
- c. Its body of law involves the state versus individuals and relies on statutory law.
- d. Either plaintiff or defendant can be found partially right or wrong, but not both.

ANS: B PTS: 1

4. The plaintiff is always the state or federal government in ____ law.

- a. contract
- b. Civil
- c. criminal
- d. private

ANS: C PTS: 1

5. Which statement is associated with criminal law?

- a. The defendant is always the state or federal government.
- b. Only the plaintiff may appeal a decision.
- c. Punishment may be a fine or imprisonment.
- d. Federal statutes alone establish criminal law.

ANS: C PTS: 1

6. The burden of proof is “beyond a reasonable doubt” during a ____ trial?

- a. civil
- b. conflict
- c. contract
- d. criminal

ANS: D PTS: 1

7. Which statement is associated with a criminal trial?

- a. Only the defendant may appeal a guilty verdict in a criminal case.
- b. Each defendant is initially assigned a court-appointed lawyer.
- c. State and federal statutes establish civil laws (or private laws).
- d. The burden of proof is on the defendant named in the case.

ANS: A PTS: 1

8. *Consensus ad idem* is Latin for the element of a contract associated with _____.
a. obligation c. consideration
b. acceptance d. meeting of the minds

ANS: D PTS: 1

9. Consideration is an element of contract law that refers to _____.
a. business etiquette
b. exchange from one party in return for performing contractual obligations
c. one party's agreement to a promise
d. an entity's decision to enter into a contract

ANS: B PTS: 1

10. In *Mordecai vs. Blue Cross/Blue Shield of Alabama*, the court determined that _____.
a. a patient cannot sue their health insurance company for breach of contract because that is prohibited by statutory law
b. terms of an insurance policy cannot be altered after inception because the patient pays a monthly premium for insurance coverage and signing the contract protects the insurance company
c. the insurance company had the right to deny payment for major medical expenses regardless of whether procedures and services performed were medically necessary.
d. the insured had the right to proceed against the insurance company for breach of contract to determine whether it had correctly determined that patient care was not medically necessary

ANS: D PTS: 1

11. The first 10 amendments to the U.S. Constitution are called _____.
a. Judicial Declarations c. Executive Orders
b. The Bill of Rights d. Titles of Nobility

ANS: B PTS: 1

12. Which of the following is associated with the Bill of Rights?
a. protects the rights to freedom of speech and religion.
b. provides the right to vote for those age 18 and above.
c. allows unlimited rights to sue states in federal court.
d. includes equality of rights under the law regardless of gender.

ANS: A PTS: 1

13. Which constitutional amendment prohibits double jeopardy?
a. First c. Second
b. Fifth d. Sixth

ANS: B PTS: 1

14. Which is associated with the Fifth Amendment of the Constitution?
a. Accused person may not be compelled to testify against himself.
b. Guards against searches, arrests, and seizures of property without a specific warrant or a "probable cause."
c. Guarantees a speedy public trial for criminal offenses.
d. Forbids excessive bail or fines, and cruel and unusual punishment.

ANS: A PTS: 1

15. Laws passed at the local level are called _____.
a. bills c. precedence
b. ordinances d. statutes

ANS: B PTS: 1

16. From a statutory perspective, CFR is an abbreviation for _____.
a. Campaign Finance Reform c. Code of Federal Regulations
b. Case Fatality Rate d. Council of Foreign Relations

ANS: C PTS: 1

17. HIPAA is the abbreviation for the _____.
a. Healthcare Information and Payer Accessibility Act
b. Health Information Provider and Accessibility Act
c. Health Insurance Portability and Accountability Act
d. Healthcare Insurance and Payer Accountability Act

ANS: C PTS: 1

18. Criminal law is subdivided into _____ categories.
a. felony and misdemeanor c. procedural and administrative
b. ordinal and substantive d. substantive and procedural

ANS: D PTS: 1

19. A felony is defined as a crime _____.
a. for which probation is always assigned
b. involving civil or private law
c. of grave or serious nature
d. that is punishable by a term of less than 1 year

ANS: C PTS: 1

20. Which subcategory of criminal law defines specific offenses?
a. misdemeanor c. statute
b. procedural d. substantive

ANS: D PTS: 1

21. Primary sources of public law include _____.
a. law of contracts or torts c. policies and procedures
b. law of obligations d. statutes and penal law

ANS: D PTS: 1

22. A constitution is a set of fundamental principles or established precedents according to which a state or other organization is governed. Thus, it _____.
a. defines principles for individuals, not the nation or state in which it is based
b. delineates procedures by which a court awards the defendant monetary damages
c. is considered the fundamental law of a nation or state
d. undergoes interpretation according to modern day statutes and regulations

ANS: C PTS: 1

23. Under *stare decisis*, _____.
a. U.S. Courts of Appeal are bound by trial court decisions of U.S. district courts in other jurisdictions
b. U.S. district courts are bound by decisions of both the U.S. Courts of Appeal and U.S. Supreme Court within the same geographic area
c. U.S. Supreme Court is bound by decisions of all U.S. courts of appeal within different jurisdictions
d. U.S. Supreme Court is obligated to follow precedent, regardless of decisions in Courts of Appeal or district courts

ANS: B PTS: 1

24. Which describes the doctrine of *res judicata*?
a. Appeals to a court decision are prohibited, and a plaintiff would be required to stand before the Supreme Court.
b. Final judgment of a competent court is conclusive upon the parties in any subsequent litigation involving the same cause of action.
c. Parties of a lawsuit have the option of bringing a subsequent action raising the same claim or demand.
d. Plaintiff can re-prosecute the defendant if a valid final judgment was administered by the court.

ANS: B PTS: 1

25. An electronic case filing system (ECFS) is an automated system that _____.
a. allows the general public to search pleadings and testimony
b. eliminates the need to charge a fee for the search
c. is rarely a component for case management
d. prohibits the processing and exchange of information

ANS: A PTS: 1

26. The government's separation of powers include _____.
a. division of power that allows one branch to dominate another when deemed necessary
b. judicial, legislative and congressional branches headed by Congress
c. a provision that each branch may exercise powers involving other branches
d. a system of checks and balances that is referred to as the separation of powers

ANS: D PTS: 1

27. GINA _____.
a. addresses perceived areas of discrimination in employment and insurance
b. is the abbreviation for Genetic Insurance Nondiscrimination Act
c. prohibits the interaction of all three branches of government for enforcement
d. replaces the HIPAA statute regarding implementation of the privacy rule

ANS: A PTS: 1

28. The legislative branch of government _____.
a. enforces and administers laws (statutes)
b. includes the Senate and the House of Representatives
c. interprets laws through adjudication and resolution of disputes
d. promulgates rules and regulations within specialized subject matter

ANS: B PTS: 1

29. The chief executive branch of government issues executive orders that interprets _____.
a. and implements and/or gives administrative effect to provisions of the constitution or laws
b. individual rules or regulations, which were written by administrative agencies
c. laws (statutes) through the adjudication and resolution of disputes
d. relevant constitutional provisions, federal/state statutes, regulations, and court decisions

ANS: A PTS: 1

30. In deciding a dispute, the court or judicial branch _____.
a. applies laws that were enacted by a majority vote only
b. considers irrelevant statutes and unconstitutional provisions
c. does not have the authority to settle disputes
d. may apply the doctrines of *stare decisis* and *res judicata*

ANS: D PTS: 1

31. *Quasi-legal requirements* may involve which of the following?
a. morals c. licensure
b. federal regulations d. statutes

ANS: C PTS: 1

32. Which describes the necessity for a hospital to follow its own medical staff by-laws of policy?
a. Joint Commission standards c. quasi-legal requirement
b. mandates from the federal government d. state board legislation

ANS: C PTS: 1

33. When a party submits evidence of compliance with accrediting standards in lieu of evidence of compliance with Medicare, it is referred to as which of the following?
a. deeming authority c. *res judicata*
b. quasi-legal d. *stare decisis*

ANS: A PTS: 1

34. Which consists of the body of rules and principles that govern the rights and duties between parties?
a. private/civil c. penal
b. criminal d. public

ANS: A PTS: 1

35. Punishment associated with _____ law may include fines and/or imprisonment.
a. civil c. criminal
b. contract d. tort

ANS: C PTS: 1

36. A defendant who has been found guilty in a _____ case may appeal the verdict.
a. civil c. contract
b. common d. criminal

ANS: D PTS: 1

37. Tort law _____.
a. defines what constitutes a misdemeanor or a felony
b. encompasses the rights and duties that exist between parties that are independent of a contract
c. governs various forms of ownership, including real property and personal property
d. is concerned with an agreement between two or more parties that creates an obligation to act or refrain from acting in exchange for some type of consideration

ANS: B PTS: 1

38. Public law _____.
a. excludes regulatory statutes, penal law, and other laws of public order
b. includes the law of contracts or torts and the law of obligations
c. involves relationships between individuals
d. is subdivided into administrative, constitutional and criminal law

ANS: D PTS: 1

39. Which is associated with the First Amendment of the U.S. Constitution?
a. Establishes rules for indictment by grand jury and eminent domain, protects right to due process, and prohibits self-incrimination and double jeopardy.
b. Limits the powers of the federal government to those delegated to it by the U.S. Constitution.
c. Prohibits unreasonable searches and seizures and sets out requirements for search warrants based on probable cause.
d. Protects freedom of religion, speech, and the press, as well as the right to assemble and petition the government.

ANS: D PTS: 1

40. Statutes are:
a. based on case law and serve as precedents during court trials.
b. considered part of the Constitution of the United States of America.
c. interpretations of laws by health care providers and others at the federal level.
d. written by legislatures and signed by the executive branch of government.

ANS: D PTS: 1

41. The American Recovery and Reinvestment Act (ARRA) is a:
a. common law intended to establish law by default.
b. fair pay requirement for paralegals' because they conduct research for lawyers.
c. state law that originated in Illinois, from which President Barrack Obama hails.
d. statute that both complements and overrides HIPAA.

ANS: D PTS: 1

42. The phrase *conflict of laws* originated from situations where:
a. a competent authority, such as a legislature, establishes legal rules.
b. differing jurisdictions were inconsistent about the same legal issue.
c. excessive fines and excessive bail were imposed by judges.
d. judgments passed by some judges became other significant sources of law.

ANS: B PTS: 1

43. The U.S. Constitution can be modified with _____.

- a. amendments
- b. majority Senate vote
- c. popular culture
- d. presidential order

ANS: A PTS: 1

44. Executive orders have the effect of law after being published (in the case of the federal system) in the:

- a. Registrar's Office
- b. Executive Register
- c. Federal Register
- d. Federal Case System

ANS: C PTS: 1

45. Zoning, building, or public safety ordinances are examples of laws passed at:

- a. a local level
- b. an executive level
- c. congressional hearings
- d. the state legislature

ANS: A PTS: 1

46. The Administrative Procedure Act (APA) governs the way in which administrative agencies of the _____ government may propose and establish regulations.

- a. county
- b. federal
- c. municipal
- d. state

ANS: B PTS: 1

47. Common law (also called case law or precedent) is a source of law that is derived from:

- a. a single document that contains all laws.
- b. court decisions.
- c. popular culture.
- d. federal rules and regulations.

ANS: B PTS: 1

48. *Stare decisis* is Latin for:

- a. a matter [already] judged.
- b. let the master answer.
- c. to let the decision stand.
- d. utmost good faith.

ANS: C PTS: 1

49. *Res judicata* is a doctrine that courts are subject to, and it means:

- a. a matter [already] judged.
- b. let the master answer.
- c. to let the decision stand.
- d. utmost good faith.

ANS: A PTS: 1

50. *Separation of powers* as it pertains to the branches of federal government is in place:

- a. as a way to increase the number of jobs created in the country.
- b. if the president is unable to fulfill his duties and responsibilities.
- c. so that no one particular branch overpowers the other branches.
- d. to prevent any interaction between factions of political parties.

ANS: C PTS: 1

51. The legislative branch of the federal government is responsible for:

- a. adhering to the doctrine of *stare decisis* and *res judicata*.
- b. determining the need for new laws and changes to existing laws.
- c. functioning to enforce and administer laws.

d. interpreting laws using an alternate resolution of dispute.

ANS: B PTS: 1

52. Legislative proposals are called:

- a. amendments
- b. bills
- c. ordinances
- d. torts

ANS: B PTS: 1

T/F

- 1. Private law is sometimes referred to as civil law because it is concerned with private rights and remedies. True
- 2. A misdemeanor is a crime of less serious nature punishable by fine or a term of imprisonment of less than one year. True
- 3. Tort law is followed in criminal law cases. False
- 4. Civil law is also known as case law. False
- 5. The Administrative Procedure Act (APA) (P.L. 79-404) is the United States federal law that governs the way in which administrative agencies of the federal government of the United States may propose and establish regulations. True

Matching

- | | |
|--------------------|---|
| 1. Contract Law | A. Concerned with agreements between two or more parties that create some type of obligation to act or refrain from acting. |
| 2. Private Law | B. A law that regulates conflicts between private parties |
| 3. Procedural Law | C. Portion of law that focuses on the steps through which a case passes. |
| 4. Substantive Law | D. Portion of the law that creates, defines, and regulates rights and duties. |
| 5. Tort Law | E. The rights and duties that exist between parties that are independent of a contract. |

Essay

- 1. Explain the three branches of government.

ANS: Legislative- the branch of government that functions to enact laws.

Executive- the branch of government that functions to enforce and administer the laws.

Judicial- the branch of the government that functions to interpret the law through the adjudication and resolution of disputes.

2. List two elements of civil law.
 1. Both parties may be anybody, including governments, corporations and individual persons.
 2. The loser in a civil case cannot be imprisoned, even if he or she cannot pay the damages assessed by the courts.
 3. Civil law is established both through state and federal statutes and through court decisions.
 4. In some state court systems, a majority vote of the jury is required to win a decision. Some state court systems require a unanimous jury decision.
 5. The burden of proof is “preponderance of the evidence,” which is defined as “more likely than not.”
 6. Either party may appeal in a civil case.
 7. The plaintiff and the defendant may both be found partially right and partially at fault.