

By: Moody

H.B. No. 396

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of nurses for workers' compensation benefits for coronavirus disease (COVID-19) and payment of those benefits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 408, Labor Code, is amended by adding Section 408.009 to read as follows:

Sec. 408.009. PRESUMPTION OF COMPENSABILITY OF CORONAVIRUS DISEASE (COVID-19) FOR NURSES. (a) In this section, "nurse" means an individual licensed under Chapter 301, Occupations Code.

(b) A nurse, including a nurse employed by a state agency or a political subdivision of this state, who suffers from coronavirus disease (COVID-19) on or after February 1, 2020, resulting in disability or death is presumed to have contracted the disease during the course and scope of employment as a nurse if the nurse:

(1) is assigned:

(A) to treat a patient diagnosed with the disease; or

(B) to duties that require the nurse to come in contact with a patient diagnosed with the disease; and

(2) contracts the disease during the patient's admission to the health care facility at which the nurse treated or came in contact with the patient or not later than the 14th day following the date of the patient's discharge from the facility.

1 SECTION 2. Section 409.021(a-3), Labor Code, is amended to  
2 read as follows:

3 (a-3) An insurance carrier is not required to comply with  
4 Subsection (a) if the claim results from an employee's disability  
5 or death for which a presumption is claimed to be applicable under  
6 Section 408.009 of this code or Subchapter B, Chapter 607,  
7 Government Code, and, not later than the 15th day after the date on  
8 which the insurance carrier received written notice of the injury,  
9 the insurance carrier has provided the employee and the division  
10 with a notice that describes all steps taken by the insurance  
11 carrier to investigate the injury before the notice was given and  
12 the evidence the carrier reasonably believes is necessary to  
13 complete its investigation of the compensability of the  
14 injury. The commissioner shall adopt rules as necessary to  
15 implement this subsection.

16 SECTION 3. Section 415.021(c-2), Labor Code, is amended to  
17 read as follows:

18 (c-2) In determining whether to assess an administrative  
19 penalty involving a claim in which the insurance carrier provided  
20 notice under Section 409.021(a-3), the commissioner shall consider  
21 whether:

22 (1) the employee cooperated with the insurance  
23 carrier's investigation of the claim;

24 (2) the employee timely authorized access to the  
25 applicable medical records before the insurance carrier's deadline  
26 to:

27 (A) begin payment of benefits; or

1 (B) notify the division and the employee of the  
2 insurance carrier's refusal to pay benefits; and

3 (3) the insurance carrier conducted an investigation  
4 of the claim, applied the statutory presumptions under Section  
5 408.009 of this code or Subchapter B, Chapter 607, Government Code,  
6 and expedited medical benefits under Section 504.055.

7 SECTION 4. (a) Except as otherwise provided by this  
8 section, Section 408.009, Labor Code, as added by this Act, applies  
9 only to a claim for workers' compensation benefits filed on or after  
10 the effective date of this Act. A claim filed before that date is  
11 governed by the law as it existed on the date the claim was filed,  
12 and the former law is continued in effect for that purpose.

13 (b) A person who on or after February 1, 2020, but before the  
14 effective date of this Act, filed a claim for workers' compensation  
15 benefits related to coronavirus disease (COVID-19) and whose claim  
16 was subsequently denied may file another claim on or after the  
17 effective date of this Act, and the changes in law made by this Act  
18 apply to that claim.

19 SECTION 5. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2021.