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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.

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

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

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

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

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

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

(A)  begin payment of benefits; or

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

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

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

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

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