**COVID-19 DEALERSHIP RESPONSE**

**OVERVIEW AND CHECKLIST**

There are several different response scenarios that should be considered when employees are either exposed (or possibly exposed) to or contract the COVID-19 virus. The response scenarios will be different depending upon whether there is possible exposure (without symptoms), close-contact exposure (without symptoms), symptoms or a positive test result for COVID-19, and/or whether multiple employees in the workplace become symptomatic (an “outbreak”). In each scenario, a prompt response is essential. Below are checklists (action items) that should be undertaken in each scenario. This guide is intended to provide a brief overview of what steps should be taken. However, every situation is different and different factual scenarios may require different responses. For legal advice specific to your dealership, contact competent counsel.

EXPOSED INDIVIDUALS –   
EXPOSURE ONLY (ACTUAL OR POSSIBLE) WITHOUT SYMPTOMS

Employee exposure to COVID-19 can come from many sources: co-workers, customers, family and/or third parties. Regardless of the source of exposure, the response should be same. Any employee that has been exposed to a person that is COVID-19-positive should be treated under the CDC guidelines for exposed individuals.

Exposure can be presumed if:

1. There has been actual physical contact with an infected individual;
2. Employee shared work stations/equipment with infected individual;
3. There has been “close contact” with an infected individual (*i.e.,* within 6 ft. for more than 15 minutes within 48 hours prior to onset of symptoms of the infected individual).

The CDC guidelines for exposed individuals working in critical infrastructure allow for exposed employees to remain working as long as the protocols are satisfied whether there was close contact or not (note this is different from State guidance discussed below). Thus, in order to remain working, exposed employees must meet the following guidelines:

1. Employee does not have any COVID-19 symptoms and has not tested positive for COVID-19.
2. Employee must wear a mask or face covering while at work.
3. Employee must do daily temperature checks.
4. Employee must self-monitor using symptom checker every day.
5. Employee should not share work station or equipment with others.
6. Employee must abide by social distancing guidelines while at work and follow the dealership’s cleaning procedures.
7. Employee should be told to consult with their own health care provider.

NOTE: California guidelines differ in possible exposure cases verses close-contact exposure. Per California guidelines, in some outbreaks, workers who were never symptomatic and did not have close contact with any of the laboratory confirmed cases may continue to work, as long as the employer has implemented all control measures as recommended by public health authorities, Cal/OSHA, or other regulatory bodies. The local public health department will make this determination based on strategies being used to control the outbreak and identify new cases. Also, California guidance states, in close-contact exposure cases, and/or where there is an outbreak in the workplace and even where the employee tested negative, that self-quarantine for 14-days is required, or until the employee is released to return to work by a health care professional.  The employee should also be instructed to be tested. However, that guidance also states that the local public health department must determine whether the CDC Critical Infrastructure guidance would allow exposed (close-contact) asymptomatic individuals to continue to work and is only permitted where the essential operations of the workplace would be compromised by quarantine of the worker and no alternate staff can perform the same role. If determined that the employee can return to work under these circumstances, they must follow the CDC critical infrastructure exposed individual guidelines.

EMPLOYEE HAS COVID–19 SYMPTOMS   
AND/OR TESTS POSITIVE FOR COVID-19

Employer must take the following steps immediately upon learning that an employee has confirmed COVID-19 symptoms and/or has tested positive for COVID-19:

1. The infected employee should not return to work and must self-isolate immediately and be tested.
2. Employee should be informed that they should speak with their health care provider.
3. Employee should be provided a copy of the COVID-19 Leave Request Form and instructed to complete and return the form as soon as possible to consider whether FFCRA paid leave is required, but should be given at least 15 days to return the form.
4. Identify and inform fellow employees and possibly customers of potential exposure to the infected employee. Employers must notify all workers who were potentially exposed to the individual with COVID-19. Employers should work collaboratively with workers to gain access to healthcare necessary to address the workers exposure, which may be especially important for those with high-risk medical conditions (e.g., immune compromise or pregnancy). DO NOT DISCLOSE THE INFECTED EMPLOYEE’S NAME.

Close contact occurs where an individual came in actual physical contact with the infected employee, shared a workstation or equipment with employee, and/or has been within six feet of the infected individual for more than fifteen minutes.

The employees who had close–contact exposure with an infected individual should be given instructions on home quarantine and symptom monitoring, information regarding the closest COVID-19 testing sites, and referral to their local public health department.

Potential exposure should be evaluated based on a window extending back 48 hours before the onset of symptoms of the infected employee. The infected employee should be questioned as to whom the employee believes meets the above requirements. Employers must maintain confidentiality as required by the Americans with Disabilities Act (ADA) and California law and must not give out the name of the infected employee to co-workers.

As set forth above, those with Potential Exposures but showing no symptoms should follow guidelines above for exposures without symptoms, as discussed below.

1. Dealership should disinfect and clean workspaces of infected employees.
2. Dealership should clean and disinfect all areas such as offices, bathrooms, common areas, shared electronic equipment routinely, especially in the departments where the infected employee worked.
3. Any employee that tests positive, becomes symptomatic or has been exposed may not return to the worksite until the “Return to Work” protocol has been satisfied (*see below*).
4. Report to Worker’s Compensation as a claim.

Work-related infection (e.g., contracted at work) may be covered by Worker’s Compensation. Dealerships should consult with legal counsel on whether to report the claim so that the dealership does not lose its right to contest the claim later.

1. Report to OSHA authorities.

If there is no indication that the infection was contracted at work or work-related, there is no duty to report to OSHA. Of course, multiple infections in the workplace (or department) may be a compelling indication that the infection was work-related. As a result, where there are multiple persons that are positive in the workplace, it is recommended to notify OSHA.

OSHA Reports are required when the following three elements are each present:

* + Confirmed Case of COVID–19;
  + Employee had to seek medical care or be absent from work; and
  + COVID-19 was contracted by employee at work (work-related).

***Note:*** Your local (City or County) Health Department may have additional requirements. See the explanation below.

1. Report to local Public Health Department.
   * California guidance was revised on July 31, 2020 to require employers to contact the local health department in any jurisdiction where a COVID-19 employee resides when there is an outbreak in a workplace. An outbreak is defined as three or more laboratory-confirmed cases of COVID-19 within a two-week period among employees who live in different households.
   * Workers in a workplace may live in counties/jurisdictions outside of where the workplace is located. When there is an outbreak in a workplace, employers should contact the local Public Health Department in any jurisdiction where a COVID-19 positive worker resides and let them know about the outbreak.
   * An employer may be asked by the local Public Health Department to provide additional information on the workers, including job description, location, work schedule, city and county of residence, and other details that could help inform the investigation and determine which other workers in the workplace may be at risk of COVID-19 infection.
2. Consider whether to close facility or department. In most cases, you do not need to shut down your facility.

If it has been less than 7 days since the sick employee has been in the facility, close off any areas used for prolonged periods of time by the sick person and:

* + Wait 24 hours before cleaning and disinfecting to minimize potential for other employees being exposed to respiratory droplets. If waiting 24 hours is not feasible, wait as long as possible.
  + During this waiting period, open outside doors and windows to increase air circulation in these areas.
  + If it has been 7 days or more since the sick employee used the facility, additional cleaning and disinfection is not necessary. Continue routinely cleaning and disinfecting all high-touch surfaces in the facility.
  + If you feel there is an outbreak (multiple cases that appear to be contracted at work), then it may be a good idea to have all non-symptomatic employees not work until they get the results of a COVID test that is negative.

Again, all symptomatic employees may not return to work must satisfy the Return to Work Protocol described below.

RETURN TO WORK PROTOCOL

**Symptomatic employee with mild to moderate illness who is not severely immunocompromised (No hospitalization was required) and whether or not positive test result (even a negative test result):**

Return to work is permitted

* At least 10 days have passed since symptoms first appeared; and
* At least ***24 hours*** have passed since last fever without the use of fever-reducing medications; and
* Symptoms (e.g., cough, shortness of breath) have improved.

***Note that the 24-hour period replaces a previous 72-hour period.***

**Symptomatic employee with severe to critical illness or who are severely immunocompromised (hospitalization was required) and whether or not positive test result:**

Return to work is permitted

* At least 20 days have passed since symptoms first appeared; and
* At least 24 hours have passed since last fever without the use of fever-reducing medications; and
* Symptoms (e.g., cough, shortness of breath) have improved.

The CDC Guidance does recommend that when returning to work the individual should wear a facemask (and not just a cloth face covering) until all symptoms are completely resolved (or at baseline pre-infection levels). Read together with the guidance above, the employee must remain out until 24 hours following fever elimination (without fever-reducing medications) and symptom improvement, but a “facemask” should be worn until symptom resolution.

**Asymptomatic employees with positive test result:**

* Employee who tested positive for infection but was asymptomatic throughout their infection may return to work when at least 10 days have passed since the date of their first positive viral diagnostic test.

**Exposed Individual-- Close Contact With Confirmed Cases (Exposed by Close Contact But Not Tested):**

Workers should quarantine at home for 14 days after the last known close contact with the confirmed case employee. Symptoms can develop even after testing negative within 14 days after exposure. The local public health department may consider allowing earlier return to work only for a worker in a critical infrastructure industry in which the essential operations of the workplace would be compromised by quarantine of the worker and no alternate staff can perform the same role. NOTE: This differs from CDC guidance in that it allows the local public health department to determine whether such close-contact exposure results in a 14-day self-quarantine or permitting the employee to work under CDC guidelines

FACE COVERINGS AND MASKS REQUIREMENT

**Cloth face covering:** Textile (cloth) covers are intended to keep the person wearing one from spreading respiratory secretions when talking, sneezing, or coughing. They are not PPE, and it is uncertain whether cloth face coverings protect the wearer.

**Facemask:** Facemasks are PPE and are often referred to as surgical masks or procedure masks. Use facemasks according to product labeling and local, state, and federal requirements. FDA-cleared surgical masks are designed to protect against splashes and sprays and are prioritized for use when such exposures are anticipated, including surgical procedures. Facemasks that are not regulated by FDA, such as some procedure masks, which are typically used for isolation purposes, may not provide protection against splashes and sprays

Workers should avoid approaching coworkers or members of the public who are not wearing a face covering for the purpose of attempting to enforce any face-covering recommendation or requirement. In these instances, workers should maintain at least a 6-foot distance from others and raise any concerns to their supervisor. Supervisors should discuss any concerns with their Human Resources Department for guidance on handling these situations. Employers should train their workers on what to do in such situations, including how to minimize risk of workplace violence and what to do to get support when de-escalation efforts are unsuccessful in these situations. There may also be limited circumstances where an employer will need to engage in a process with workers and/or customers who claim a disability-related reason for not being able to wear a mask to see if there are accommodations that are effective in maintaining the safety of the workplace. Consider using the following language:

* “Following the guidelines (on face coverings or distancing) can protect you and everyone else, so we ask that you follow them.”
* “If you don’t have a face covering, we’d be happy to provide one (if available).”
* For customers and visitors to the workplace: “We regret that you’re unwilling to follow the guidelines. Please give us a bit of time to organize the area to allow additional physical distance between you and our fellow workers.”

In all instances, it is important to focus on minimizing risk and to practice de-escalation measures:

* Speak with a calm voice at a normal volume and communicate with posture and expression that the person will be respected.
* Settle on a method for calling in support from security or law enforcement if needed.