



*nj car*

**CLEAN**

**UPDATE**

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# ***Presenters:***



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# “Keeping Neighborhood New Car Dealerships Safe for Employees and Customers”



- ★ A gold standard certification program created to stop the spread of infectious diseases (like COVID-19) in dealerships.
- ★ A policy and procedures manual for our members to follow while navigating a pandemic that is specifically designed with their business model in mind.
- ★ A program that aims to prevent future shutdowns and/or business disruptions caused by an infectious disease outbreak.
- ★ A tool that can be used to educate employees and customers on your dealership's safety protocols through marketing materials.

# What's New??



## New Administration:

*Biden/Harris Administration January 2021*

- Access to free and reliable testing
- Fix PPE problems
- Equitable distribution of vaccines
- Protect elderly and at risk
- OSHA Enforcement
- Consumer/Labor focused



## OSHA:

- Written and enforced COVID-19 Prevention Program
- Hazard Assessments
- Personal Protection Equipment/Employee screening
- Stop the spread - Health Assessments & positive cases
- Vaccines



# COVID-19 Prevention Programs



## Prevention Program in your dealership:

### OSHA

- Hazard Assessment - NJ CAR Clean checklists,
- Identifying measures that limit the spread of COVID-19
- Adopting measures to ensure that workers who are infection or potentially infection are separated
- Implementing protections from retaliation
- Implementing physical distancing
- Barriers where physical distancing cannot be maintained
- Using face coverings/PPE
- Improving Ventilation
- Supplies for good hygiene
- Routine cleaning and disinfection
- Time off policies surrounding COVID-19
- Return to work requirements if different from CDC recommendations
- Expiration of FFCRA March 31st

# Employee Screening



## Employee Screening required by Exec 192 - Recommended by OSHA

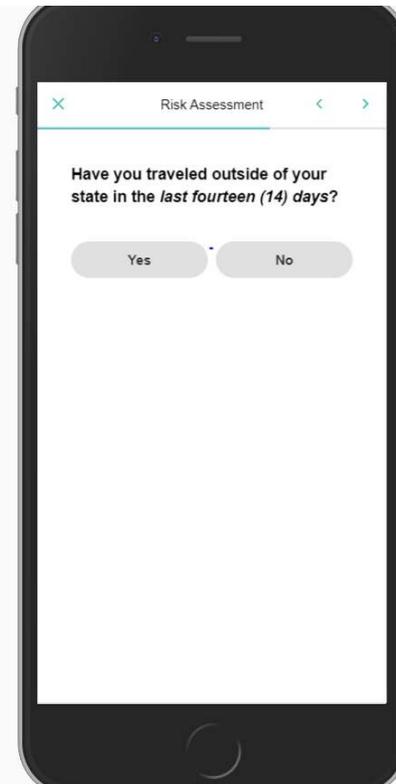
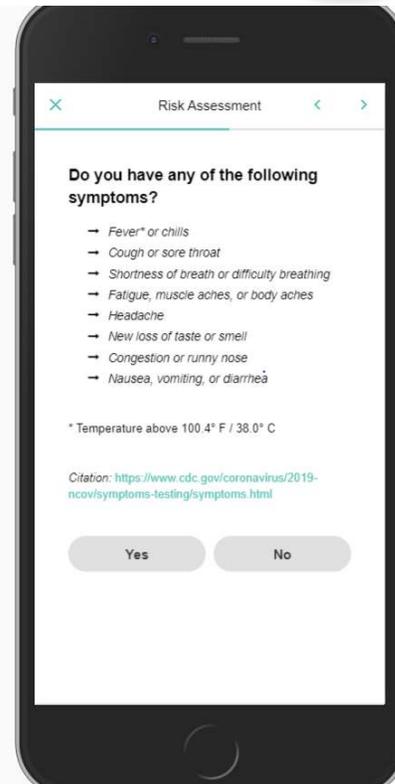
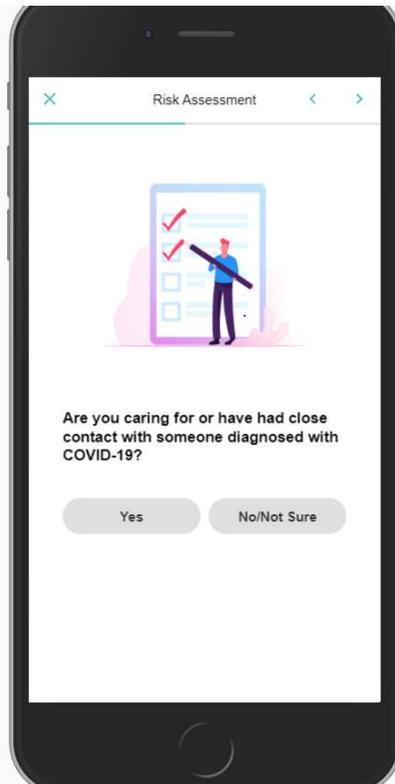
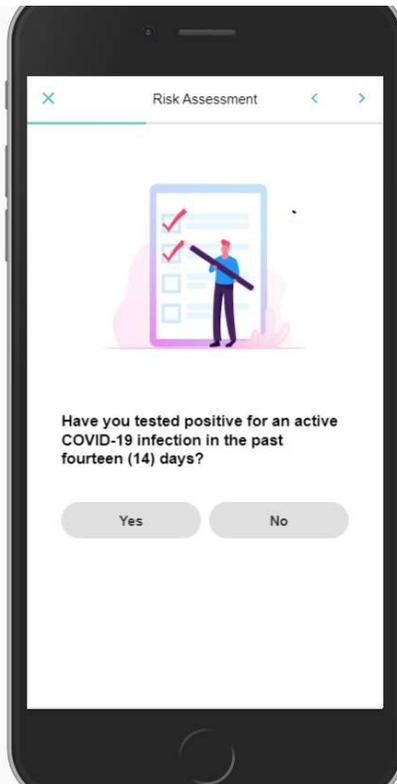
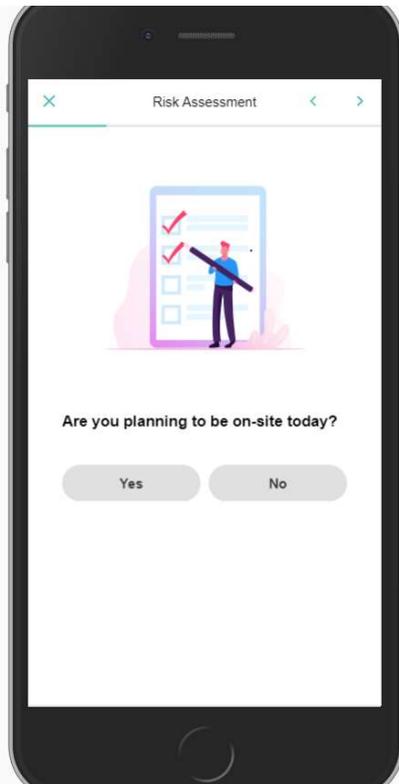
*Daily health checks of employees entering the dealership required*

- Temperature screenings
- Visual symptom checking
- Self-assessment questionnaires

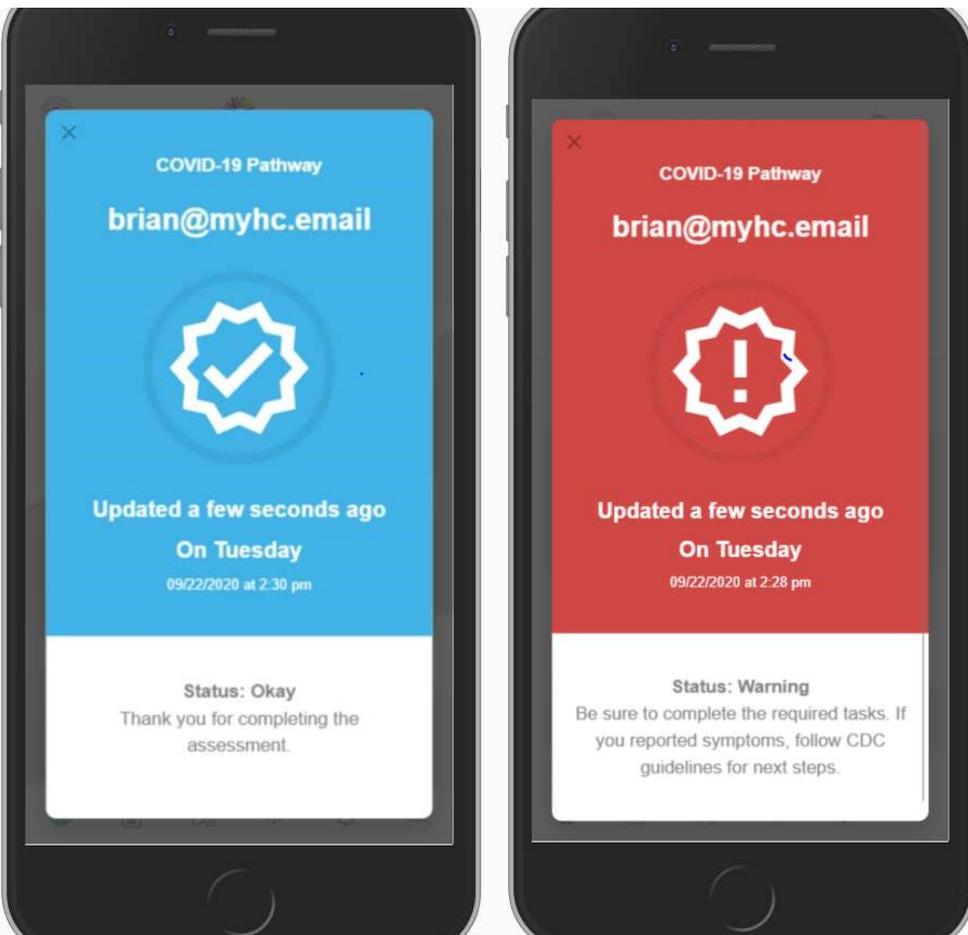
### • **HealthChampion COVID Screening Solution**

- Supports Executive Order
- HIPPA Compliant
- Complies with CDC guidelines for COVID Screening Assessments
- Easy-to-use App for employees to complete before arriving to work
- Badge on phone to indicate Pass/Fail
- Eliminates paper trail, need for temperature checks

# Employee Screening



# Employee Screening



- Pre-configured questions (CDC compliant)
- PASS | FAIL indicator for employee
- Notification sent to administrator's app for review
- Administrator/department head can follow up for more information

# Employee Screening



HealthChampion Groups Support Sign Out

## COVID-19 Summary - HealthChampion Sales Demo 3

Export Invite

**Members**

18 of 50  
32 Left

**Alert Status**

0 All Clear  
15 With Alerts  
3 Unknown

**Task Completion**

0 All Completed  
18 Have Incomplete

Search by name or email. 1-18 of 18 Members Page 1 of 1

Sort: By Alert Status

Filter By Date: Start Date

Name	Tasks
<b>Lucy</b> Status last changed: 10/30/2020 1:00 PM	0 / 2
<b>Travis</b> Status last changed: 10/30/2020 1:00 PM	0 / 2
<b>Rodrigo Berger</b> in Department A Status last changed: 10/21/2020 9:01 AM	0 / 2
<b>Selina Parkes</b> in Department A	

Support

# Employee Screening



No contract required  
Discounted - \$450 setup fee

# of Users	Standard Cost	Special NJ CAR Pricing
1-50	<del>\$99</del>	\$89
51-100	<del>\$199</del>	\$169
101-150	<del>\$299</del>	\$249
151-200	<del>\$399</del>	\$329

**[TINYURL.COM/NJCAR](https://tinyurl.com/njcar)**

**TO SIGN UP:**

Or contact Breanna Esquilin:  
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# Communication



## Comprehensive communication plan

- Workplace Coordinator (*a must have*)
  - Responsible for COVID-19 issues on employer's behalf
- System for communicating COVID-19 symptoms, exposures, or hazards in the workplace
- Minimize negative impact of quarantine and/or isolation on employees
- Recording/reporting COVID-19 deaths and infections to OSHA
  - Work-related cases need to be recorded on Form 300 logs
    - Case is confirmed COVID-19
    - Case is work related
    - Case involves one or more relevant recording criteria
  - Must follow 29 CFR 1904 when reporting COVID-19 deaths and hospitalizations
  - Outbreaks should be reported to health department
- Work-related cases could trigger a workmen's compensation claim – contact your broker for more details
- Allowing employees access to vaccinations
  - Risks associated with providing the vaccine to or requiring it for employees

# Handling a Complaint



## What to expect when being contacted by NJ DOL/OSHA due to a complaint?

- Depending on severity of complaint, NJ DOL will call on behalf of OSHA regarding a COVID-19 issue
- Complaint will most likely be anonymous, could be from employee, customer, vendor - any visitor.
- Investigator will ask for one of more of the following:
  - COVID-19 Prevention Program and/or written workplace policy regarding COVID-19
  - "Stop the Spread" protocols
  - Photo proof of barriers, social distancing posters/signs, handwashing signs, floor markings, PPE, hand sanitizing stations
  - All above can be found within NJ CAR Clean materials
- If above is to satisfaction, you can more than likely avoid an onsite visit which should be your goal
- After receiving a complaint, make all necessary corrections
  - Keep staff up to date with changes and implementations

# Quarantine & Isolation



## CDC has updated quarantine and isolation guidelines

- Always reference CDC and nj.gov for most up to date information
- **Quarantine** keeps someone who might have been exposed away from others
  - Individuals in close contact with someone who has COVID19
    - Excluding those who have had COVID within 3 months or are fully vaccinated
  - Stay at home for 14 days, watch for fever.
  - Follow recommendations of local public health dept to shorten quarantine
    - After day 10 possible without testing
    - After day 7 with negative test result on day 5 or later
- **Isolation** keeps an infected individual away from others - even in their home
  - Can end at least 10 days since symptoms first appeared and
  - At least 24 hours since fever with no medication and
  - Other symptoms are improving
  - After hospitalization - one may need longer isolation time
  - Positive test/no symptoms: 10 days since test.

# COVID Vaccination



## Vaccinations as a condition of employment

- There is a difference between Emergency Use Authorization (EUA) and Final FDA Vaccine Licensure Approval
- Vaccines administered under an EUA must be accompanied with fact sheet describing the EUA, right to refuse and alternatives to the product
- Dealerships must consider whether to give vaccine on-site or require employees to get vaccines on their own and provide proof

## A dealership implementing a mandatory vaccine policy may have to provide accommodations if an employee cannot take the vaccine for the following reasons:

- **RELIGIOUS ACCOMODATIONS:** An employees sincerely held religious belief in accordance with Title VII of the Civil Rights Act; and
  - An employee must tell employer that mandatory vaccines conflicts with their sincere religious beliefs
    - This information could be a first-hand explanation from the employee or may be verified by third parties.
    - Third party verification does not have to come from clergy or member of employee's religion – it can come from anyone who knows of employee's religious practice or beliefs.
    - Employers do not have to accommodate secular or medical beliefs about vaccines.
    - The EEOC encourages employers to “assume that an employee's request for religious accommodation is based on a sincerely held religious belief.”

# COVID Vaccination



## Religious exemption cont'd:

- If employer has an objective basis for questioning either the religious nature or sincerity of a particular belief or practice, the employer would be justified in seeking additional supporting information. (*Employers can use a Religious Accommodation Request Form*)
- **CAUTION:** Be mindful not to pry for too much information. An employer that asks for unnecessary evidence risks liability for denying a reasonable accommodation request
- Employer must make reasonable accommodations for employees unless doing so would result in undue hardship to the employer
  - The EEOC defines undue hardship as "more than a minimal burden on the operation of the business." Increased cost to the employer is not enough
  - Violations of Title VII may subject an employer to significant damages, including back-pay along with compensatory and punitive damages
- **DISABILITY OR MEDICAL EXEMPTION:** An employee's disability or medical condition under Americans with Disabilities Act (ADA).
  - An employer must provide accommodations unless they would place an undue hardship on the employer, or the employee poses a direct threat to the health and safety of others.
  - Employers must interact with employees under the ADA in good faith
  - If an employer wishes to speak to the employee's doctor, a HIPPA Release signed by the employee is required.

# COVID Vaccination



## Disability or Medical Exemption cont'd:

- Use an Interactive Process Questionnaire to be completed by the employee's physician that asks the following:
  - Nature of the employee's impairment(s).
  - The duration of the need for the accommodation.
  - The extent to which the impairment(s) conflict with the employer's vaccination requirement
  - Employers must determine if the accommodation poses a threat or creates an "undue hardship" or poses a direct threat to the health and safety of others.

## • ADA Accommodations Considerations

- Employers must determine if the accommodation poses a threat or creates an "undue hardship" or poses a direct threat to the health and safety of others.
  - Undue Hardship is more than a de minimis cost or burden - increased cost to the employer is not enough. Must create substantial operational difficulties and expense to the employer
  - The ADA's undue hardship standard is complicated and more stringent than Title VII's and considers the individual facts of each case.
  - Direct threat to the health and safety of others means whether any form or degree of accommodation would mitigate the substantial harm posed by an unvaccinated employee.

# COVID Vaccination



## Common accommodations under Title VII and ADA

- According to the EEOC "If an employee cannot get vaccinated for Covid-19 because of a disability or sincerely held religious belief, practice, or observance, and there is no reasonable accommodation possible, then it would be lawful for the employer to exclude the employee from the workplace
- Employers will need to determine if any other rights apply under EEO laws or other federal, state, and local authorities
  - Remote work, social distancing, masking, shift changes, location change, unpaid leave (FMLA)
- **Medical Inquiries and Prescreening Questions**
  - For Dealerships that mandate the vaccine at work or contract with a third-party vendor:
    - ADA limits medical inquiries about an employee's physical or mental impairments or health
    - The vaccine is not a medical examination
    - Prescreening vaccine questions may be disability related inquiries (questions likely to elicit health information)
    - If the dealership administers the vaccine, it must show that the prescreening inquiry is "job-related and consistent with business necessity"
    - **Exceptions** to showing that the screening questions are job related and consistent with business necessity:
    - If the Dealership offers the vaccine on a voluntary basis (employees choose whether to be vaccinated), then employee voluntarily answers pre-screening questions. If the employee refuses to answer, the Dealership may decide not to vaccinate the employee. *No retaliation for failing to answer the prescreening questions.*
    - If the employee receives a dealership required vaccination from a third party that does not have a contract with the Dealership (pharmacy or other health care provider).

# COVID Vaccination



## Medical Inquiries cont'd

- To show that prescreening medical questions are job-related and consistent with business necessity
- The dealership must show that it had a reasonable belief, based on objective evidence, that an employee who does not answer the questions (and therefore, does not receive a vaccination), will pose a direct threat to the health or safety of her or himself or others
- **Prescreening inquiries**
  - Genetic Information Non-Discrimination (GINA) prohibits employers from making employment decisions based on the employee's genetic information or obtaining genetic information
  - Vaccine pre-screening questions may ask about family history and implicate GINA
  - Under Title II of GINA, employers may not (1) use genetic information to make decisions related to the terms, conditions, and privileges of employment, (2) acquire genetic information except in six narrow circumstances, or (3) disclose genetic information except in six narrow circumstances
  - If the pre-screening questions request genetic information, then employers may want to opt for proof of vaccination vs. administering the vaccine themselves
  - Inform employees when providing proof of the vaccination not to provide and genetic information
- **Vaccination Documentation**

Dealerships can request proof that an employee has been vaccinated

  - This is not a disability related inquiry and unlikely to illicit medical information
  - Tell employee not to supply medical information

# COVID Vaccination



## Other Objections to Mandatory Vaccination:

- Employees may claim they:
  - Distrust the vaccine
  - Believe they will get ill from the vaccine
  - Claim the vaccine advances a political agenda
  - Claim that the Dealership is exerting control over their rights to freedom over their persons/medical decisions
- These objections do not constitute exemption
- **Employee education**
  - Written vaccination policy is a must
  - Incentives:
    - EEOC wellness rules
    - Beware if dealership sponsored
      - Given by the dealership if a third party contracted by dealership
    - De minimis value
      - Gift cards are ok
  - Training and education
  - Essential job requirement/discipline/termination

# Employer/Employee Relations



## Employees who can request accommodations:

- Employees over 65, pregnant or nursing, or those with pre-existing medical conditions
- Consider all reasonable request for accommodations for these workers
- Obligation to agree upon reasonable accommodation
- Remote work/isolated work in office/job-protected leave

## Assess employee leave options:

- Dealership's paid time off polices applies to quarantine or self-isolation
- NJ Earned Sick Leave applies to most COVID-19 leave
- Families First Coronavirus Response Act (FFCRA) Emergency Paid Sick Leave (currently voluntary by employer until March 31, 2021)
- American Rescue Plan Act of 2021 (ARPA)
  - Employers may voluntarily (not required) extend Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion Act provisions of the Families First Coronavirus Response Act (FFCRA) to employees and receive tax credits.
  - Extension runs through September 21, 2021
- Family Medical Leave Act also applies to COVID-19 related leave
- New Jersey Family Leave Act may also apply

### IMPORTANT:

Employers should speak with  
Legal counsel before taking any  
adverse employment action

# Employer/Employee Relations



## What employers can and cannot do:

Can permit employees to remove face masks at certain times

- Can deny entry for individuals not masked
- Can ask about COVID-19 symptoms
- Can take employees temperature
- Can test employees for COVID-19
- Must maintain strict confidentiality of records of prescreening/tests
  - May choose to not keep record, assess employees daily and send home those employees who do not pass
- Can require doctors note certifying fitness for duty (or stamp/emails/forms)
- Cannot fire or punish an employee from taking time off from work based on a medical professional's determination that the employee has, or is likely to have COVID-19 during the Public Health Emergency

### IMPORTANT:

Employers should speak with  
Legal counsel before taking any  
adverse employment action

# PROMOTIONAL MATERIALS



## Car Door Window Decal

**NJ CAR Clean is offering 10% off all promotional materials to our members.**

**CLEANED & SANITIZED**

ALL high-touch areas of this vehicle have been sanitized including:

- Door handles
- Seatbelts
- Steering wheel
- Shift knob
- Control knobs
- Lever
- Touchscreens
- Rearview mirror



[www.njcar.org/safety](http://www.njcar.org/safety)

## Entrance Door Decal

OUR DEALERSHIP HAS BEEN  
**CLEANED**  
FOR YOUR SAFETY

Due To New Jersey Executive Order No. 163

**FACE COVERINGS ARE REQUIRED**

We've taken all necessary precautions to keep our customers safe and healthy. We ask that you please:

- Wear a face covering
- Practice social distancing (6 feet)
- Wash your hands

[www.njcar.org/safety](http://www.njcar.org/safety)



## Rearview Mirror Hang Tag



**CLEANED & SANITIZED**

ALL high-touch areas of this vehicle have been sanitized including:

- Door handles
- Seatbelts
- Steering wheel
- Shift knob
- Control knobs
- Lever
- Touchscreens
- Rearview mirror

To learn more about what our dealership is doing to prevent the spread of COVID-19, please visit:  
[www.njcar.org/safety](http://www.njcar.org/safety)

OUR DEALERSHIP HAS BEEN  
**CLEANED**  
FOR YOUR SAFETY

## PLEASE DO YOUR PART...

- Frequent hand washing
- Maintain social distance
- Wear a face covering
- Practice cough/sneeze etiquette
- Stay home if you or a family member are ill



This dealership is NJ CAR Clean Certified. The health of our customers and employees is our number one priority. We are following guidelines set by the CDC, WHO, OSHA, and EPA to stop the spread of COVID-19.

To learn more about what our dealership is doing to prevent the spread of COVID-19, please visit:

[www.njcar.org/safety](http://www.njcar.org/safety)

## Breakaway Car Door Seal

THIS VEHICLE HAS BEEN  
**CLEANED**  
FOR YOUR SAFETY