

ABAC NEWS

January
February
2021



COVID-19 In Your Shop
**“What are you doing to
protect everyone?”**

Your Car, Your Choice - Find us at www.abaconn.org

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President's Message

Bob Amendola

Offer & Acceptance Our New Role



In our last board meeting, we were fortunate enough to have an honorary participant, Mr. Tony Lombardozzi. Tony is truly such a wealth of knowledge for our industry and I know I can speak for the entire board when I say how much we value his opinion and insight.

During our meeting, we were discussing the history of our industry and insurer's involvement. Tony mentioned the principle of offer and acceptance, que the lightbulb over my head.

By way of background, the term "offer and acceptance" is completed when a

premium payment accompanies the offer made by the proposed insured or applicant and the insurer accepts the offer. If a premium payment has accompanied the offer and the insurer rejects the offer, the insurer may make revisions (and return the premium payment) and make a counter-offer to the applicant.

Then the ball is in the applicant's court to accept the terms and conditions of the counteroffer.

Our industry has been participating in this dance since its inception. Insurers would have us believe it is "take it or leave it". That isn't the case. Do not allow them to dictate to you the amount of your invoice. Furthermore, and in the spirit of Mr. Lombardozzi's parallel lines, it is not our offer to accept, counter or reject; it is the insureds'.

We should forego the dance altogether. The contract is between the insurer and the insured. What they offer really isn't our concern.

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Our focus should lie on properly repairing the vehicle, educating the consumer, involving them in the process and helping them stand up for themselves.

In doing so, they will be more apt to adequately counter, reject or accept the insurance company's offer. Until we do this, nothing will really change. The time is now. We as repairers have been pushed to the brink. Insurers know no bounds and they will continue to take until we break.

So, I encourage you to use this as food for thought. Don't accept what you cannot prosper on and consider putting the negotiations back into the customers hands, where it ultimately belongs.

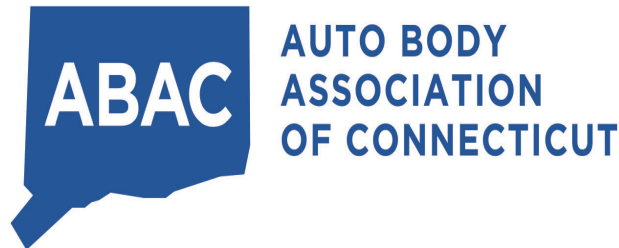
As always, please do not hesitate to contact me with any questions, concerns or ideas you have.

All the best,

Bob

Bob Amendola

Autoworks of Westville - New Haven
President - Auto Body Association of Connecticut



**Unity is Strength
Knowledge is Power
Attitude is Everything**



Working Through Muddy Waters

ABAC Vice-President - Ashley Burzenski

As the vaccine becomes more available and we hopefully round the bend towards some sort of normalcy, I wanted to update you on our social media efforts amid the pandemic.

We have a Social Media Committee within our Board of Directors which has been hard at work to spread our message to the motoring public.

Our presence on Facebook, Instagram and Twitter has remained a constant. Now more than ever, educating and informing the motoring public is a top priority. If you don't already follow our page, I encourage you to.

You may find many of the informational topics would be good to share with your follower base such as the pitfalls of photo estimates, your rights after an accident, helpful tips and much more. Please encourage your customers to follow us as well.

Through targeted ads and boosted posts across those platforms, we continue to grow our follower base. We are so close to reaching the 5k mark!

Second, our board of directors recently produced a series of ads to be broadcasted through "AMP Radio" at gas stations throughout the state. You may have even heard them already while getting gas! What is so great about this campaign is that it allows us to reach consumers without the limitations such as which radio stations they listen to in the car (if at all) etc. and there is no escaping them or skipping over them at the pump!

Up next, we have a billboard in the works. Billboards are a great way to reach the masses. It is our hope that in doing so, we can expand our impression and educate consumers even further. We hope to have that up and running very soon so keep your eyes peeled!

Pandemic or not- we're still working hard to educate and empower the motoring public. Social media has been a great tool for us in doing so and when we couple it with other means of marketing- the sky's the limit. As a result, we hope you see the effects of our efforts through informed customers.

Every time you share one of our posts or direct someone to our pages, you are helping us to make that difference.

Until next time, please know that your board of directors are still hard work and we hope sooner than later that we can all get together at a membership meeting.

All the best,

Ashley

Ashley Burzenski can be reached at autoworksofwestville@gmail.com

Insurance Department Continues to Mislead Consumers Through FAQs



The Connecticut Department of Insurance has failed and/or refused to fix misleading and inaccurate content on its website. The ABAC has unsuccessfully petitioned the DOI for years to revise the FAQs section on its website. Revising the FAQs is an important project because this information serves as guidance to parties involved in the repair process, including repairers, insurers and most importantly, consumers. While some important content was changed at our request, there remains the following false and misleading content.

FAQ #3: Can my repair shop charge more than the insurance company will pay?

Yes. In most cases, the repair shop and your insurer will come to an agreed upon price to repair your vehicle. If they are unable to do so, you can request that your insurer reevaluate the repair shop's estimate. Please note, however, that if they cannot agree upon a price, you may be required to pay the difference between the repair shop's labor rate and the amount that your insurer is willing to pay. The Insurance Department does not have authority to determine what labor rate should be charged.

The following sentence should be omitted from the answer: **"Please note, however, that if they cannot agree upon a price, you may be required to pay the difference between the repair shop's labor rate and the amount that your insurer is willing to pay."** This sentence should be removed from the response because it seems to imply that, no matter the circumstances, the insurer gets to dictate the rate of pay and if you as a consumer disagree, it is always your responsibility to pay the difference. In my experience, and I believe as evidenced by the data following related arbitration results, insurers are often wrong and often underpay claims. That reality warrants some consideration, which can be easily acknowledged by simply removing this sentence, which purports a contrary perception. The ABAC made the above request, which was not honored.

FAQ 4: How can I avoid paying the difference if the repair shop charges more than what the insurance company will pay?

Make sure no repairs start until you have written confirmation that the insurance company has agreed to a price with the repair shop. If they cannot agree on a price to repair your vehicle, you have the option of (i) paying out-of-pocket for the work; or (ii) filing a complaint with the Insurance Department's Consumer Affairs Division. Please refer to question 5) below for information regarding the Department's arbitration process.

This suggestion is impractical. Waiting for written confirmation of payment before starting repairs, particularly in light of supplemental damage claims and so forth is not reasonable. It also reveals a fundamental misunderstanding on how auto body repairs should legally be performed: i.e. by a licensed repairer for the vehicle owner. The insurer is simply an indemnifying entity with no say in the repair.

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In light of the same, I suggested the DOI revise the question and answer as follows:

4. What steps can I take to avoid a dispute between my insurance company and auto body repair professional over the cost to repair my vehicle?

You should attempt to discuss early with both the repair shop and the insurance company whether there is a potential for a dispute on the cost of repair. If and when you become aware of a dispute, you should assess the nature of the disagreement so that you can make an informed decision. An insurance company cannot refuse to pay for parts or repairs that are necessary to correctly and safely fix your vehicle. Similarly, an auto body shop cannot charge you for work it did not do or for unnecessary repairs. If you end up with an irreconcilable dispute, you may file a complaint and/or seek assistance through the Department's arbitration program.

This reasonable and practical request was ignored.

FAQ 14: The insurance company paying for the cost of repairs has told me they will use after-market parts in their estimate for the repairs. What are they and do I have a choice as to what kind of parts are used for the repair?

[Content omitted for brevity] . . . Section 38a-355 of the Connecticut General Statutes allows for the use of after-market parts which are motor vehicle replacement parts of sheet metal or plastic, which constitute the visible exterior of the vehicle, including inner and outer panels, and which are generally repaired or replaced as the result of a collision.

You have the option of paying out of pocket for the difference in cost for New or Used OEM parts.

The final two sentences of this answer must be corrected because it incorrectly cites to General Statutes § 38-355 as allowing for the use of after-market parts and states that consumers have the option of paying for OEM parts out of their pocket. Section 38a-355 does not allow for aftermarket parts. The statutory language states that only when an insurer is writing an estimate, and that estimate is based on the contemplated use of aftermarket parts, that estimate "shall clearly identify in such estimate" that aftermarket parts are part of the estimate. The statute was designed to avoid funny business with estimates. There is no law in Connecticut that give insurers a right to decide what parts may be used in repair. Insurers do not fix cars. Just as insurers cannot tell doctors how to perform medical procedures, insurers cannot tell auto body shops how to fix cars.

This request, which contains a material misrepresentation of the law, was likewise declined or ignored.

These questions and answers reveal an institutional bias that the industry has been fighting for years. While justice remains looming, we are not quitting on this. Feel free to share it with your legislators and colleagues. This issue is not going away.

Please stay well and healthy!

John M. Parese, Esq. is a Partner with the law firm of Buckley Wynne & Parese and serves as General Counsel to the ABAC. Buckley Wynne & Parese maintains offices in New Haven, Hartford and Stamford, and services clients throughout all of Connecticut. The opinions set forth in Attorney Parese's articles are for education and entertainment purposes only, and should not be construed as legal advice or legally binding. If you have any questions or concerns about the content of this or any of Attorney Parese's articles, you are encouraged to contact Attorney Parese directly.

On the Minds of Members

This is the second in a series of interviews that will be appearing in the ABAC News going forward. We will be contacting ABAC Members and Directors each edition for their input on many topics that can assist and help ABAC Members in their businesses.

This edition we feature feedback from Tony Ferraiolo, George Atwood and Ed & Carol Lupinek.

COVID-19 In Your Shop – What are you doing to protect everyone?

How are you protecting appraisers?

Tony: First, we clean the car, as best as we can, inside and out, all the touch points. We have a separate area, away from others, for the appraiser to look at the vehicle. Most appraisers are satisfied being outside (if the weather permits) so that they can sit in their car to create the appraisal or supplement.

George: Like Tony, we get the car inside, wash it, sanitize the touch points and then bring the vehicle out back. When the appraiser arrives, we bring the car inside. Everyone, techs, appraisers, etc. MUST wear a mask at all times. We distance ourselves from the appraiser. Getting the vehicle sanitized right from the beginning is the most important step.



Ed: We have an estimating bay that is constantly cleaned. The appraisers must use this area. They are not allowed anywhere else in our building. Some of our processes have changed due to input from our employees who watched people coming through our shop. One employee noticed someone from the outside come in to use our bathroom. He came to us and said, “we’re not using the bathroom. We don’t want to get sick.” So that’s when we purchased our outside portalet bathroom and solved that issue!

What process do you perform once the cars are sanitized to reduce confusion for your employees and what products do you use for sanitization?

George: There are only 2 people allowed to touch the car; myself or my detailer. We are gloved and masked, we bring our can of disinfectant with us to spray the touch points. Once inside, we use an air atomizer, with the air circulating inside the car, and we spray a solution through the atomizer to disinfect the inside completely. Once a vehicle has been sanitized, we use cones placed on top of the roof (like the ones they use at McDonald’s) or inside the vehicle so that they are visible to our employees, or anyone else.

Tony: I use alcohol wipes that are in a sealed bag and you add the disinfectant to this bag and the solution is absorbed by the wipes allowing you to use one wipe at a time as needed. This is a great product to use on all the touch points. Like George, we also use an atomizer filled with a solution called PermaSafe. We fog the touch points. We fog the inside of the vehicle with the air circulation system running, and like George we let the vehicle run for about 10 minutes to make sure it all gets into the ventilation system. Now, we can’t guarantee that the vehicle is 100% disinfected, but what we can tell you is that we performed the sanitization process according to the CDC and to the best of our ability. No one can guarantee 100% effectiveness when performing these steps. We have not had one case due to any of our cars or customers coming into our shop, so I think what we are doing is working. It’s a lot of work.

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Our responsibility is also day to day cleaning of the touch points in our offices, customer areas, etc. I have our areas wiped down daily and we go through the shop constantly wiping door handles and all shop touch points with alcohol wipes. Also, like George, we use a system to let our employees know that the vehicle is ready to come into the repair process by placing a green X on the vehicle. The final sanitization happens just before the delivery of the vehicle.

Ed: There are two products that we use. One is an ozonator/ionizer from Cam Auto which is a disinfecting machine that uses two hoses that are placed inside the car, with the windows and doors closed. It then performs an ozonator cycle followed by the Ionizer cycle. There are no chemicals involved with this piece of equipment. Ozonation is a type of advanced oxidation process, involving the production of very reactive oxygen species able to attack a wide range of organic compounds and all microorganisms. Ionization - In short, ionizers emit ions—charged particles—to help an air purifier's filters trap contaminants in your indoor environment. Many of our most popular air purifiers feature ionizers to capture particles that otherwise would be too small to filter out.

Carol: It kills everything bacterial and viral. Once these two processes are complete (about 10 mins), you then open up the doors and windows and air out the vehicle for another 10 minutes. Vehicles are dropped off on a Sunday so that we have time to sanitize them before we bring them into the shop. We then mark the car with green tape so that our employees know that those vehicles have been sanitized and ready.

Ed: It's great that our machine does the inside of the car, but it doesn't do anything on the outside. We are diligently wiping down the outside touch points of the vehicle. And let's not forget our office space, appraisal area, customer waiting area, doorknobs, counter space, desks, and on and on repeatedly during the course of the day. It seems to be an endless process. And it can be time consuming.

The sanitizing process sounds like it takes time. How do you get paid for sanitizing the vehicle?

George: Well, we put it (sanitizing fee) on the repair order. Some insurance companies pay, some don't. We're having a difficult time. Some companies that used to pay are now backing off saying they will no longer pay for sanitizing the vehicle. If you (the insurance company) can't justify paying to sanitize the vehicle, just know that we have to do this process. We should get compensated for it.

Tony: There is a fee associated with this sanitization service. It's not a service that is part of the repair process. This is similar to what happens in the wintertime. During inclement weather, a prewash of the vehicle is necessary to remove the sand, salt and other chemicals that are on the vehicle. Vehicle must be pre-cleaned before we can begin the repair process. This sanitization is something that has to be done. It must be charged for since it is a process that not only takes time, but also the products and equipment are very expensive. So, at my shop, there is a fee associated with this process. We are not having a difficult time collecting from insurance companies, they are paying us. If we do encounter a company that wants to pay less or not at all, then we are letting the customer know and getting them involved and getting the customer to file a complaint with the Department of Insurance to say, "the shop is trying to protect my car and my family and the shop's employees, why would they (the shop) not be paid to do that?"



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If you walk the consumer down the right road, they're on our side, they want their car safe and usually, having the customer calling the insurance company and squawking is enough. I would have to say we are over 90% successful getting paid for sanitizing vehicles.

Ed: Every car we perform the operation on gets a sanitizing fee. It's an additional cost, therefore we need to get paid. It's an additional step.

Carol: We charge \$25 for pre-treat and 1 hour. And then a post-treat for \$15 and ½ hour.

Are collision repair facilities mandated that they must sanitize vehicles?

Tony: No. Absolutely not. It's common sense that we're doing it and it's a necessity that we're doing it, but there is nothing that says you must sanitize the vehicle.

George: It's recommended by most of the OEM's but there is no one mandating that you have to do it.

Do you send your employees for COVID testing?

Tony: Only if there is an issue or if an employee has been exposed or if they are displaying any COVID symptoms. If an employee calls in sick, (or it is not a scheduled day off) it is mandatory that they get tested.

What happens when an employee tests positive in your shop?

Tony: We have had 2 employees that contracted COVID-19. Both were outside affected meaning they did not contract the virus inside of the shop. They were isolated away from the shop for 10-14 days and could not return to work until they tested for a negative result. As soon as we knew an employee had been potentially exposed, I mandated that everyone else in my shop to be tested and no one was allowed back unless they had a negative result. We follow CDC Guidelines for Essential Businesses. That's the key. The CDC guidelines are a bit different for essential businesses. There are different requirements and times so that you can get that employee back quicker.

George: To protect your employees, to protect yourself and the appraisers, and to protect the public, we must perform this operation of sanitizing. I don't want to get sick. I don't want anyone to get sick. I believe we do a very good job, and our track record can defend that statement. I had one employee that came in contact with someone who had COVID. He had to quarantine then test negative. I paid him, but the maximum I will pay anyone is up to ten days. And I will only pay it one time. I think that is fair and reasonable.



Ed: We've been very fortunate that we haven't had any of our employees get COVID. Yet! One of our employees was exposed to a potential threat, so he had to wait until that person and himself both tested negative.

Carol: We have had another employee who was exposed to COVID also. He had to quarantine until the person he knows had tested negative and he tested negative.

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To protect our employees, we also have our parts deliveries dropped off outside. While we do realize that there are not many bathroom facilities nearby, we have purchased a portalet (portable bathroom) for our vendors so that they do not have to enter the shop to use our facilities.

Where can you find information for COVID-19 for Essential Businesses?

George: The ABAC has put most of the important information that you would need right on their website. This makes it quite simple for shop owners and managers to get their information without all the hassle. You can find all of this information on our website, abacomm.org - click on "Industry Information" and select "COVID-19 Resources".

Tony: I can't stress enough that although the information found on the ABAC website is as thorough as possible, the CDC Website remains the ultimate place to get the most up to date, day-to-day information. The ABAC does everything it can to notify members of changes via email.

Carol: Most of our information comes from our online meetings with the ABAC via Zoom. We also do the research online from various sites.

Ed: It seems that this information changes daily, so we need to maintain our due diligence, staying on top of all the changes.

Have you noticed any information from the OEM's concerning best practices pertaining to COVID-19?

Tony: I'm glad you asked that question. We're following Ford and Toyota right now. Both of these manufacturers have really good step-by-step procedures as what they want you to do when applying disinfectant and the sanitization of the vehicles. There is a checklist for you to use. These 2 manufacturers seem to have a really good plan, but I'm pretty sure that ALL of the OEM's have a plan aligning with the CDC on what they want you to do.

As we close this interview, is there anything any of you would like to add?

Tony: Just to reiterate. We are essential businesses deemed by the State of Connecticut. Ourselves, our families, our employees and customers are in harm's way every day, people coming in and out of our doors every day like paint vendors, salespeople, parts delivery personnel, and appraisers; if you're not sanitizing vehicles or attempting to sanitize vehicles to the best of your ability, then that's just bad business. If you're not getting paid for the sanitization then that's your fault because it's a viable operation that is essential and needs to be done. This is not something that we brought to the repair process. This was brought on by COVID-19. We have had to adapt and adjust to these processes. You should be able to collect your charge. There should be no argument whatsoever.

Tony Ferraiolo is the Immediate Past President of the Auto Body Association of Connecticut and owner of A&R Body Specialty in Wallingford

George Atwood is an ABAC Board of Director and owner of Atwood's Auto Appearance in Deep River

Ed & Carol Lupinek are both ABAC Board of Directors and owners of Eddie's Auto Body in East Haddam.

The ABAC News would like to thank them all for taking time to give your input to help support and educate ABAC Members.

Submitted by Don Cushing

Take These 5 Steps When an Employee Gets COVID-19

The bad news might come from a phone call or a routine screening at work. Either way, on learning that an employee has tested positive for COVID-19, employers should act immediately to ensure the safety of the employee's co-workers and comply with all applicable laws.

Based on guidance from the U.S. Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA), as well as the advice of attorneys who've already guided clients through a COVID-19 response, here are five basic steps to take in the aftermath of an employee's COVID-19 diagnosis.

1. Send the employee home to quarantine.

If the employee is at work and does not require urgent care, tell him or her to contact a health care provider and quarantine for at least 10 days. Even if the employee shows no symptoms, he or she may still be able to spread the virus during that time frame, according to the CDC.

Certain states or localities with high rates of transmission may take a more cautious approach and require a longer quarantine period, said Gina Fonte, co-chair of the OSHA, workplace safety and whistleblower claims team at Holland & Knight in Boston.

It's a good idea to notify local public-health authorities if they are not already aware of the diagnosis, and Fonte advised that some states now require such notification.

2. Vacate (if possible) and clean areas recently used by the employee.

Clean and sanitize workspaces and common areas that were used by the infected employee in the days prior to diagnosis. The CDC has issued guidance for cleaning and disinfecting such areas, including recommendations for cleaning materials. (A tip from the agency: If approved cleansers are not available, one-third cup of bleach added to one gallon of water works just fine.)

Time and fresh air are also powerful disinfection agents. If an area is left vacant for seven days or more, only routine cleaning is required, the CDC said, "because the virus that causes COVID-19 has not been shown to survive on surfaces longer than this time." Likewise, outdoor areas don't need to be disinfected, and "spraying disinfectant on sidewalks and in parks is not an efficient use of disinfectant supplies," the CDC explained.

Those who do the cleaning are at risk of exposure to the virus, as well as to potentially toxic cleaning chemicals, and they should be supplied with appropriate personal protective equipment such as gloves and face masks, the CDC said. Also, to comply with OSHA requirements, employers should obtain safety data sheets for the cleaning materials used and make them available to employees, Fonte said.

3. Notify potentially exposed co-workers without divulging the employee's identity.

To the extent possible, employers should retrace the activities of the infected employee and notify any coworkers who might have had contact with that person in the days before the diagnosis. The CDC has determined that COVID-19 exposure risk begins when someone is within 6 feet of the infected person for 15 minutes or more. The agency also notes that infected people can spread the virus 48 hours before the onset of symptoms.

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Prompt notification and follow-up reduces the risk that even more employees will be exposed to the virus, and so these actions fall under OSHA's general duty requirement to provide a safe workplace, attorneys said.

But employers must not divulge the employee's identity when making those notifications. "A key issue is to provide enough information such that co-workers can take precautions and self-monitor for symptoms without improperly or inadvertently divulging private information of the affected employee," Fonte advised. Developing a simple notification form in advance will save time when notification is needed, she added.

Per the CDC, exposed employees should isolate for 14 days. However, in sectors considered critical, such as health care, CDC guidelines say exposed employees can continue to work onsite while self-monitoring and wearing a face mask.

4. Determine when the employee may return, but not by testing alone.

The CDC advised employers not to require a negative COVID-19 test before employees return to work, but instead to follow these guidelines:

Those who never develop symptoms can end isolation 10 days after testing positive.

Those with moderate to mild symptoms can end isolation after 10 days if at least 24 hours have passed without a fever and other symptoms have improved.

Those with severe symptoms may need to continue isolation for a full 20 days or longer.

[SHRM members-only HR form: COVID-19 Employee Self-Certification to Return to Work]

Travis Vance, a partner with Fisher Phillips in Charlotte, N.C., said employers often want the reassurance of a negative test result, and testing for COVID-19 is allowed by the Equal Employment Opportunity Commission. But he advises against it because testing is inconvenient for the employee, and test results can sometimes take a week or longer. In addition, the CDC recently advised that people can test positive for COVID-19 for three months after infection, long after they are no longer contagious.

5. Record the infection if it is work-related and report it to OSHA if required.

Employers must record all work-related employee COVID-19 cases on their OSHA 300 logs, but determining whether a case is work-related is often challenging. In late May, OSHA clarified that a case should not be considered work-related if there is an alternative explanation for how the employee contracted the virus. A case is more likely to have been contracted at work if there is a cluster of positive employees or an employee tests positive soon after exposure to an infected co-worker.

As always, employers should check state health and safety laws for any variations. For example, California presumes a COVID-19 case is work-related unless the employer can disprove it.

In the unlikely event that an employee contracts COVID-19 at work and is hospitalized or dies within 24 hours, that case must be reported to OSHA immediately.

Source: www.shrm.org - Article by Nancy Cleeland

What Employers Should Know About the COVID Vaccine

The coronavirus pandemic has been top-of-mind for individuals across the globe for the last year, but with the vaccine rollout, many businesses are wondering if they can require their employees to get the COVID-19 vaccine.

Affinity HR Group, a human resources consulting firm that specializes in small and medium-sized enterprises, addressed business owners' vaccine concerns during one of its recent Monday HR Minute presentations.

Claudia St. John, president of Affinity HR Group Inc., broke down a recent ruling from the Equal Employment Opportunity Commission, along with rights held by employers and other concerns. She began the presentation saying, "Our hopes of putting the coronavirus behind us have all been accomplished, except for the fact that we haven't done that all."

Here's what business owners need to know about the vaccine rollout.

The Ruling

In December, the EEOC released a plethora of information for employers regarding health screenings and employee vaccination. According to St. John, the commission decided that "Employers are within their rights, because of the pandemic, to protect their workforce by requiring [employees] get a vaccine." But, as most employers know, it's never that simple.

The Caveats

St. John warned employers to be aware of the constraints that come with the Americans with Disabilities Act, as well as Title VII of the Civil Rights Act, which protect individuals from a variety of discriminations.

In order for someone to receive a COVID-19 vaccination, the Centers for Disease Control and Prevention requires certain questions to be asked. The EEOC warns, "If the employer requires an employee to receive the vaccination, [administered by the employer or a third-party contractor], the employer must show that these disability-related screening inquiries are 'job-related and consistent with business necessity.'"

To put it simply, St. John told viewers, "Make sure you're not violating ADA rights based on the questions you're asking." Furthermore, St. John said, employers that are requiring the vaccine must make accommodations for those with ADA-approved conditions that would prohibit them from taking the vaccine.

When it comes to Title VII, St. John reminded employers that if taking a vaccine is against an employee's religion, it cannot be enforced. "It's very clear from the EEOC," she said, "Requiring a vaccine as a condition of employment is within employers' legal rights, provided there are reasonable accommodations for those who cannot take the vaccine."

The Future

St. John said as more vaccine doses are rolled out and conversations continue to take place, employers can expect guidelines and best practices to shift. Per the EEOC, "Employers should remember that guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Therefore, employers should continue to follow the most current information on maintaining workplace safety."

OSHA announces updated COVID-19 guide for businesses

The Occupational Safety and Health Administration on Friday announced it had produced “stronger worker safety guidance” to prevent the spread of the COVID-19 coronavirus.

“More than 400,000 Americans have died from COVID-19 and millions of people are out of work as a result of this crisis. Employers and workers can help our nation fight and overcome this deadly pandemic by committing themselves to making their workplaces as safe as possible,” labor secretary senior counselor M. Patricia Smith said in a statement Friday. “The recommendations in OSHA’s updated guidance will help us defeat the virus, strengthen our economy and bring an end to the staggering human and economic toll that the coronavirus has taken on our nation.”

OSHA said the move followed an order by Democratic President Joe Biden to produce what OSHA called “clear guidance” for employers. Biden on Jan. 21 had ordered the Department of Labor to produce “revised guidance to employers on workplace safety during the COVID-19 pandemic” within two weeks.

“OSHA is updating its guidance to reduce the risk of transmission of the coronavirus and improve worker protections so businesses can operate safely and employees can stay safe and working,” occupational safety and health principal deputy assistant secretary Jim Frederick.

The document issued Friday “is not a standard or regulation, and it creates no new legal obligations,” OSHA wrote in a news release.

Rather, it’s supposed to educate companies how to keep employees safe under existing rules and employer obligations, the agency said. OSHA said it would update the document as needed.

“There is no OSHA standard specific to COVID-19; however, employers still are required under the General Duty Clause, Section 5(a)(1) of the OSH Act, to provide a safe and healthful workplace that is free from recognized hazards that can cause serious physical harm or death,” OSHA explains in the new guidance.

Biden on Jan. 21 told the Department of Labor to “focus OSHA enforcement efforts related to COVID-19 on violations that put the largest number of workers at serious risk or are contrary to anti-retaliation principles.” He also told the agency to examine if any enforcement “short-, medium-, and long-term changes” would “better protect workers and ensure equity in enforcement.”

OSHA records indicate the agency has between April 20, 2020, and Jan. 31, 2021, registered 114 complaints about auto repair essential businesses (a broad segment which would include both mechanical and collision repair) at the federal level.

OSHA on Friday advised all other employers to establish a prevention program, calling it “the most effective way to reduce the spread of the virus.” Friday’s guidance explains what that might entail.

Many repairers likely instituted such a program last spring as the pandemic exploded in the U.S., but Friday’s document might offer ideas for refining it. For example, some of the discussion in the new Friday guidance involves vaccines — a relatively new development.

Friday’s guidance breaks down and organizes the concept of a COVID-19 prevention program into 16 formal steps OSHA says should be included.

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“Employers should implement COVID-19 Prevention Programs in the workplace,” OSHA wrote in the new guidance. “The most effective programs engage workers and their union or other representatives in the program’s development, and include the following key elements: conducting a hazard assessment; identifying a combination of measures that limit the spread of COVID-19 in the workplace; adopting measures to ensure that workers who are infected or potentially infected are separated and sent home from the workplace; and implementing protections from retaliation for workers who raise COVID-19 related concerns.”

It also stressed the importance of employee buy-in in the program.

“The most effective COVID-19 prevention programs engage workers and their representatives in the program’s development and implementation at every step,” OSHA wrote. (Emphasis OSHA’s.)

Regarding vaccinations, OSHA wrote Friday that one step of a COVID-19 preparedness plan would include “Making a COVID-19 vaccine or vaccination series available at no cost to all eligible employees. Provide information and training on the benefits and safety of vaccinations.”

Another vaccination element of a workplace COVID-19 program would involve “(n)ot distinguishing between workers who are vaccinated and those who are not,” according to the agency.

“Workers who are vaccinated must continue to follow protective measures, such as wearing a face covering and remaining physically distant, because at this time, there is not evidence that COVID-19 vaccines prevent transmission of the virus from person-to-person,” OSHA wrote. “The CDC explains that experts need to understand more about the protection that COVID-19 vaccines provide before deciding to change recommendations on steps everyone should take to slow the spread of the virus that causes COVID-19.”

OSHA delivers a similar message to workers in the document. “It is important to wear a face covering and remain physically distant from co-workers and customers even if you have been vaccinated because it is not known at this time how vaccination affects transmissibility,” the agency told employees.

Source: www.RepairerDrivenNews.com

Experts: Body shops should be careful, detailed when communicating COVID-19 efforts

Collision repairers who reassure customers they’ve “sanitized” or “disinfected” a vehicle during the COVID-19 pandemic are inadvertently making a significant semantic error, according to property restoration experts.

Vocabulary is “critical,” according to Gearhart and Associates founder Norris Gearhart, a veteran of disaster response who has spent the past five years focused on biological hazards.

An attorney should examine any documents from that perspective, Gearhart advised a Society of Collision Repair Specialists webinar Tuesday. How is the business validating the assertion they disinfected the vehicle?

Washington Metropolitan Auto Body Association Executive Director Jordan Hendler, who also organizes a restoration industry conference, said her understanding in interacting with property restorers was that they never make such guarantees.

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Businesses who declare they're sanitizing devices or disinfecting their businesses are "making a false claim," said Encircle business development Vice President Kris Rzesnoski, who has worked in property restoration for 15 years. "... You have to be very careful in your language."

Tell your customer you are washing their vehicle and applying a disinfectant, and "that's the best you're gonna be able to do," Rzesnoski said.

All that can be said is that the professional applied a disinfectant, following EPA guidelines, Gearhart agreed. The business used the appropriate method and allowed the substance to remain wet for the proper amount of time, he said. If the surface needed to be wiped down afterward, this too would be communicated.

You're saying the vehicle has been cleaned and a disinfectant applied at that particular "moment in time," according to Gearhart. The minute someone touches the vehicle or opens the door, "all bets are off. It's completely changed again," he said.

The company must make that clear, Gearhart said. You document your processes and procedures and that you performed that work as outlined, according to Gearhart. "That's pretty much it," he said.

"We've also seen examples of businesses promoting services to 'clean', 'sanitize' or 'disinfect' customer vehicles," SCRS recently wrote. "The Society of Collision Repair Specialists (SCRS) urges caution with the language used in your promotion of services. For instance, your facility can assure that you 'apply disinfectant', but there is no testing protocol to ensure that you 'disinfected' the vehicle. In our interaction with other industries, this has been a repeated caution; describe only what you performed, rather than a promise of what it accomplished."

Terminology

Gearhart also advised that the terms "sanitize" and "disinfect" are not interchangeable from the Environmental Protection Agency's perspective. They each carry a distinct definition, and a repairer must use them appropriately.

Rzesnoski said even the word "cleaning" might be "too aggressive" because a company isn't cleaning all surfaces; it's washing surfaces and applying a disinfectant.

According to the EPA, sanitizers are "Used to reduce, but not necessarily eliminate, microorganisms from the inanimate environment to levels considered safe as determined by public health codes or regulations." Disinfectants are "Used on, nonliving surfaces and objects to destroy or irreversibly inactivate infectious fungi and bacteria but not necessarily their spores." (The concept of sterilants/sterilizing is even more stringent than disinfecting, according to the EPA.)

CDC flu guidance as of 2018 distinguished between cleaning, disinfecting and sanitizing as follows:

Cleaning removes germs, dirt, and impurities from surfaces or objects. Cleaning works by using soap (or detergent) and water to physically remove germs from surfaces. This process does not necessarily kill germs, but by removing them, it lowers their numbers and the risk of spreading infection.

Disinfecting kills germs on surfaces or objects. Disinfecting works by using chemicals to kill germs on surfaces or objects.

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This process does not necessarily clean dirty surfaces or remove germs, but by killing germs on a surface after cleaning, it can further lower the risk of spreading infection.

Sanitizing lowers the number of germs on surfaces or objects to a safe level, as judged by public health standards or requirements. This process works by either cleaning or disinfecting surfaces or objects to lower the risk of spreading infection. (Emphasis CDC's.)

Like the EPA, the CDC also as of 2016 defined sterilizing as more comprehensive than disinfecting: "a process that destroys or eliminates all forms of microbial life and is carried out in health-care facilities by physical or chemical methods. ... Unlike sterilization, disinfection is not sporicidal."

Asked if insurer-requested estimate wording for COVID-19 operations opened up a repairer to a greater degree of liability, Gearhart said the liability wouldn't be shifted from the repairer. Hiring a third party to develop a process for vehicles could share the liability with that entity, but the repairer would still need to document the process had been carried out correctly, according to Gearhart.

Asked about describing work as "cleaned in a workmanlike manner," Gearhart said the phrase in his experience referenced someone trained as a professional to clean, not in a "homeowner manner."

Rzesnoski called the language "good for being general" but it still introduced problematic words. He warned that cleaning carries a definition: the object is actually "clean"

"We usually use 'washing,'" he said.

Gearhart at one point said using products designed for the food industry might also be problematic, for the Food and Drug Administration uses different definitions of cleaning, sanitizing, and disinfecting.

Transparency on process, products

Rzesnoski said the customer needs to be informed what substances will be placed on their vehicle and sign off on it. The repairer's process at intake and delivery must be disclosed to customers.

"You can't have any surprises," he said. "... They'll want to know that."

The repairer should be using products on the Environmental Protection Agency's "List N" recommended by the CDC for COVID-19 and providing the Safety Data Sheets (SDS) for the substances to the customer, Rzesnoski said.

The repairer then should follow the product's instructions, Rzesnoski said.

It's also possible a substance will produce an adverse result in an occupant, Rzesnoski said.

Some people might have allergies. A repairer might wish to ask if the customer has chemical sensitivity, perhaps even placing the substances on a neutral surface and see if a customer smelling it reacts before using the products on the vehicle.

In home restoration, if the professional were to "make the home worse," they might wind up having to buy it, Rzesnoski noted.

Source: www.RepairerDrivenNews.com



NUMBER: 23-015-20 REV. A

GROUP: 23 - Body

DATE: June 19, 2020

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This bulletin supersedes Service Bulletin 23-015-20, dated April 30, 2020, which should be removed from your files. All revisions are highlighted with **asterisks**** and include additional Caution note added.**

SUBJECT:

Disinfectant Solution Recommended for COVID-19

MODELS:

2001 - Current

(All)

All FCA Group Vehicles

NOTE: This bulletin applies to all vehicles within the following markets/countries: North America.

DISCUSSION:

Materials Engineering has evaluated Bioesque Botanical Disinfectant and determined that it is suitable for use on all high touch points in and outside of the vehicle, including: doors, seats, steering wheel, shifter, etc. However, it is not recommended for use on exterior lenses, reflectors and other lighting surfaces. Prior to use, please read the manufacturer's instructions and test small areas to verify the cleaners are safe for use on intended surfaces. Due to the potential for residue after the product has dried on the surfaces, we recommend using the supplier's first application strategy for any surfaces that are shiny or high gloss, strictly for aesthetic purposes (Spray on to surface, let sit for at least **four** minutes then wipe off with paper towel or microfiber cloth).

When ordering Bioesque Botanical Disinfectant, it is available in two different sizes: **(PN 68526615AA)** comes in a case with four, one gallon containers or **(PN 68526614AA)** comes with 12, 32 oz Spray bottles.

Key Points to Remember:

CAUTION! **To avoid any damage to the electronics of the vehicle, do not spray cleaners or disinfectants directly into the radio or other electronic components. To clean/disinfect these areas, spray directly onto the paper towel or microfiber cloth and then wipe down surface, avoiding any saturation to these areas of concern.******

- Vehicle should be disinfected before any service work is performed and before the vehicle is given back to the customer.
- Protective gloves should be used.
- To eliminate the COVID-19 virus, the surface **must remain wet** at least four minutes. Spray all areas and let the solution sit four minutes before wiping surface dry.
- Read and follow all manufacturer's instructions.

For more details on this product go to bioesquesolutions.com/botanical-disinfectant-solution/. When viewing the details on the site, go to the bottom of the page to view and download the Safety Data Sheet and Product Label.

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NOTE: Do not use this product on exterior lenses, reflectors and other lighting surfaces.



Fig. 1
Touch Points

- Door handles (In/Out)
- Steering wheel (Controls Back/Front)
- Arm rests
- Mirrors and controls
- Visor
- Shift lever
- Door lock controls
- Seat adjusters, auto/manual
- Multifunction lever
- Turn signal lever
- Radio and climate controls
- Radio display, touch screen
- Air vents
- Seat/seat belts
- Console upper/lower
- Keys/key fobs
- Window controls
- Hood and/or trunk
- Fuel door

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