

Practice Update

What to Do When a Guest or Worker in Your Hotel is Diagnosed with COVID-19

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To address the ongoing coronavirus (COVID-19) pandemic, governors and local officials have enacted countless emergency orders requiring individuals to stay in their homes except for certain essential activities, and ordering “non-essential” businesses to shut down. While some of the orders – particularly in South Florida – have required hotels to shut down except for certain guests including medical workers and emergency first responders, most of these orders exempt or except the hotel and lodging industry and its employees from these shutdown and stay-at-home measures. Regardless of whether your hotel is permitted to remain fully operational or is only permitted to accept certain essential guests, enormous risks exist in continuing to accept guests during the coronavirus pandemic.

In light of this, hotel owners must review their processes and procedures for protecting their hotels from infectious disease, including COVID-19. Owners also need to consider and plan for a situation where guests or workers are diagnosed with coronavirus. Hotel owners should consider the following.

Protecting Your Hotel From an Onsite Outbreak

1. Ensure that all guests and workers are aware of and are following all available health and safety

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guidance available from sources such as the Centers for Disease Control and Prevention (CDC), OSHA, and other hotel and lodging trade groups. This guidance includes requiring workers to stay home when they are sick, encouraging guests and workers to follow social distancing guidelines, urging guests and workers to wash their hands or use hand sanitizer frequently and making sanitizer stations available, and cleaning all surfaces, buttons, knobs, and other frequently-touched surfaces regularly. Consider having a specific employee or safety manager ensure that all guidance is followed.

2. Clean your hotel regularly. This includes disinfecting frequently-used surfaces at least on a daily basis, and minimizing sharing of any day-to-day items. It also means ensuring your hotel is properly ventilated.
3. Limit the number of workers and guests that may be staying in the hotel congregating in any given location of the hotel. If your hotel has an onsite restaurant that is permitted to continue serving or is offering takeout, ensure that proper steps are taken so that food is not contaminated. Also consider ways to stagger guest meal times to take the need for social distancing into account.
4. Review any agreements with lenders or investors. Get familiar with provisions of your contracts relating to force majeure, payment delays, emergencies, insurance, and termination. Determine whether any applicable insurance policies may provide business interruption insurance. Understand your rights and obligations now, so that you can better form an action plan. Do not wait until an outbreak at your hotel occurs. Speak to your insurance broker and consider filing a claim under a business interruption or other insurance policy now.
5. Consider preparing notices in advance. This includes letters notifying guests and workers of a shutdown or mandatory quarantine, notifying guests and workers that they may have been

exposed to the virus, and notifying an insurer, lender, or investor of a potential impact caused by coronavirus, including any impediment or delay to payment. Consider requesting that your lender or other investors forebear on any scheduled loan payments until the pandemic has ceased.

6. Evaluate your employment situation and policies, and speak to employment counsel to determine, among other things, whether to lay off workers, furlough workers, or continue to employ workers while applying for an SBA loan that will cover your payroll for the near term. Familiarize yourself now with the newly enacted and continuously evolving employment assistance programs potentially available to you. Also consider how to address employees who refuse to come to work based on a reasonable fear of contracting COVID-19.
7. Create a contingency plan in the event a governmental order completely shuts down your hotel, or a governmental order limits guests that may stay at your hotel to medical personnel, first responders, and other essential guests. Speak with counsel about steps that may be taken to ensure that any guests are, in fact, essential guests, including potentially requiring guests to sign a contract attesting that they fall within the definition of an “essential guest” under any governmental order.
8. Form a plan and course of action for what your organization will do in the event a guest or worker is diagnosed with coronavirus. Determine who has the responsibility for which obligations within your organization, what steps must take place when a diagnosis occurs, any steps you must take before your hotel will reopen or a quarantine will be lifted, which parties need to receive notices, and your future ability to operate the hotel and comply with your loan or investor agreements.

What To Do When a Guest or Worker is Diagnosed with COVID-19

1. Isolate the guest or worker and any person who may have been in close proximity to the infected individual, and ensure implementation of appropriate quarantine arrangements. Evaluate the potential need to shut down the hotel immediately under applicable guidelines from the CDC and local health department or similar governmental mandates, as well as send any communications to other guests or workers that are necessary regarding possible exposure to the infected individual. Guests and workers in a hotel are very frequently in close contact, and commonly touch the same surfaces and items. If one guest or worker is diagnosed with COVID-19, there is a probability that others may have been infected as well. Identify further measures needed to maintain a safe hotel that are specific to your hotel, including closing or limiting the use of any amenity spaces or public areas such as gyms, pools, beaches, spas, restaurants, and bars.
2. Hire a professional cleaner to sanitize affected areas of the hotel, and ensure that the cleaner is familiar with and complying with any guidelines or requirements from the CDC or other parties, including any governmental health or safety agencies with jurisdiction over the hotel.
3. Consider engaging with any governmental health or safety agencies with jurisdiction over the hotel. Ask for their advice, safety/health requirements, and any available financial or other assistance.
4. To the extent you have not already, review your insurance policies, and provide any notices of claims. Also, review your loan and investor agreements and determine whether any steps are needed with respect to your lender or other investors. File a claim under any applicable business interruption or other insurance policy.
5. Work with your guests, workers, lenders, investors, and any applicable government agencies to determine the best methods to mitigate damages and loss. Form a prudent and reasonable plan to make the hotel safe and able to

be re-opened after any mandatory or voluntary closure. Work with your guests and employees to learn from the past and institute additional steps to prevent further outbreaks.

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