

May 14, 2020

# MANAGING HOTEL RISKS FOR REOPENING OPERATIONS

# AGENDA

- Managing Reduced and Restorative Operations
- Employee Training
- Employee, Guest and External Communications
- Managing Critical Building Systems
- Operational Practices
- Restoring and Preparing Guestrooms; Front and Back of House; Facilities
- ‘New World’ Protocols and ‘Evolving’ Standards of Care
- Liability and Workers’ Compensation Concerns



# PANELISTS

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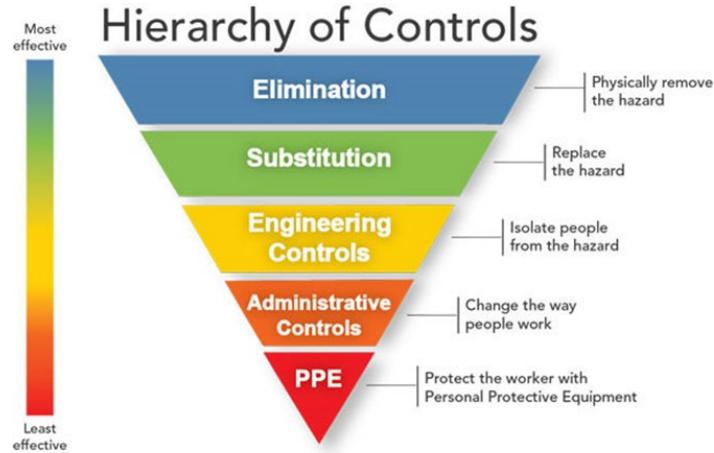
**MANAGING THE REOPENING  
OF YOUR HOTEL**



# MANAGING REDUCED AND RESTORATIVE OPERATIONS

A basic principle and method for managing risk and safety involves using what is known as the hierarchy of controls.

The hierarchy of controls includes steps ranging from the most effective at the top, to the least effective at the bottom.



Using this method will demonstrate that your processes of assessment; review of exposures and controls; and implementation of protocols follow a logical, cohesive and efficient method.

# EMPLOYEE TRAINING

- COVID-19: disease, methods of transmission, methods of protection
- Property and department-specific protocols
- OSHA Standards
  - Bloodborne Pathogen Exposure Control
  - Hazard Communication & GHS
  - Personal Protective Equipment
  - Respiratory Protection
  - Sanitation
  - Incorporate elements of the General Duty Clause
    - Reasonable efforts to keep the workplace free of a hazard to employees;
    - That (and how) the hazard was recognized;
    - The hazard may cause or be likely to cause death or serious physical harm;
    - A feasible and useful method to correct the hazard.
- Whistleblower protections

# EMPLOYEE, GUEST AND EXTERNAL COMMUNICATION



- Employee safety
- Guest safety
- Marketing and media opportunities
- Legal implications: Do not write a check you cannot cash, or someone else will cash it for you

# MANAGING CRITICAL BUILDING SYSTEMS

- Power
  - Electricity
  - Natural gas
  - Backup generators
  - Transfer switching
- Water
  - Legionella prevention
- HVAC
  - Filters
  - Thermostats
- Life safety
  - Fire alarm control panel (monitoring service)
  - Audible alarms and strobe lights
  - Smoke, heat, carbon monoxide detectors
  - Fire sprinklers, fire sprinkler connections stand-pipe and fire pump system pressures, etc.
- Telecommunications and IT networks
  - Telephones systems (Kari's Law 911 notification system)
  - Network/VPN, WiFi, etc.
- Security
  - Staffing
  - Cameras
  - Recording and retention equipment
  - Door alarms, panic alarms (monitoring service)

# OPERATIONAL PRACTICES: THEN & NOW

- Reservation, guest arrivals and departures
- Physical layout changes & distancing
- Personal protective equipment
- Housekeeping and Laundry
  - Guestroom cleaning and laundry protocols
  - Public area cleaning protocols
- Food & Beverage
  - Products, menus, outlets, meetings/banquets/catering
  - Kitchen operations
- External food and other product delivery, receiving and handling protocols

# RESTORING AND PREPARING THE PROPERTY

- **WHAT WILL REMAIN AND WHAT WILL BE ELIMINATED?**

- Minibars, ice buckets, decorative pillows, small amenity bottles, glass and ceramic glassware and cups, collateral binders in guestrooms, paper and pens in guestrooms
- Buffets; self-serve beverage stations: water, tea, coffee; ice machines, vending machines, retail/pantry items

## HOW TO CLEAN AND SANITIZE FOR RE-OPENING AND BEYOND?

- Our employees
- Contract service

Carefully consider any new vendors to the cleaning and sanitizing market. This is a great opportunity for new vendors, or vendors who did not previously perform these services, to offer to provide services and assurances to assist in your cleaning and sanitizing efforts.

Any contract or agreement with a third-party vendor must be carefully reviewed and subject to established and sound contractor management and risk transfer policies and protocols.



# CLEANING AND SANITIZING



1. Only use cleaning and disinfecting products that are identified on EPA List N: Disinfectants registered with the Environmental Protection Agency (EPA) against SARS-CoV-2 which is the virus that causes COVID-19. <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>
2. Obtain and review Safety Data Sheets for each product being considered to ensure that any product hazards and controls such as PPE are acceptable and that products are compatible with your property's surfaces, fixtures, fabrics, etc.
3. Determine the need for specific tools and secondary containers for proper use of the product to ensure that sprays and other methods of application are performed correctly, safely and per the manufacturer's recommendations.
4. Consider alternative product application equipment such as pressurized spray containers and electrostatic sprayers, and ensure that whatever application equipment is used does not compromise the effectiveness of the sanitizer or disinfectant on the surfaces applied.
5. Test samples of surfaces and fabrics throughout the property to ensure that products do not damage or stain surfaces and fabrics.
6. Determine cleaning product vendor's ability to assist in training employees in the correct mixture/dilution (if necessary); use of appropriate secondary containers and labeling; and use of cleaning product(s).

# NEW WORLD AND EVOLVING STANDARDS OF CARE

## CAN WE ASK EMPLOYEES AND GUESTS QUESTIONS ABOUT WHETHER THEY HAVE SYMPTOMS OR CONFIRMATION OF POSITIVE DIAGNOSIS OF COVID-19 ?

We strongly recommend that you consult with your trusted legal counsel regarding whether you should ask any questions, as well as what actions you would take based on responses.

If you have agreed to proceed, consider that asking any question of guests and employees upon arrival relies on the individual's honesty and level of need.

Asking about a specific confirmation of COVID-19 may be a gray area involving privacy but asking about the symptoms may be a less intrusive method and is the method that some in the industry that are in the 'eye of the storm' are indeed asking. Consider the following question:

In the last 72 hours have you experienced any of the following symptoms?

- Fever, tiredness, dry cough, sore throat
- Unusual body aches and pains
- Nasal congestion, runny nose - not related to seasonal allergies
- Diarrhea

# NEW WORLD AND EVOLVING STANDARDS OF CARE

## WHAT ABOUT TAKING TEMPERATURES?

Again, we strongly recommend that you consult with your trusted legal counsel regarding any proactive efforts and actions such as taking temperatures, as well as what action is to be taken based upon the results.

- Consider the competence (training) and levels of exposure and protection provided to those asking questions and taking temperatures.
- Some hotels and other businesses that are taking temperatures are refusing entry of employees and guests based on a combination of temperatures and confirmation of symptoms. They are also considering infra-red thermometers because the current thermometers are only reading surface temperature which can fluctuate due to elevated or even low surface temperatures due to weather and other conditions immediately prior to arrival.
- The denial of entry to guests must be consistent with guidance from trusted legal counsel, any contract language, the brand, and aligned with any executive order issued in your properties' jurisdictions.

# NEW WORLD AND EVOLVING STANDARDS OF CARE

## CLEANING & SANITATION

### Guestrooms & Public Areas

- Guests who have not voluntarily disclosed symptoms or confirmed case of COVID-19
- Guest who work in high-exposure and high-risk industries such as healthcare, first responders, correctional institutions
- Guests who have voluntarily disclosed symptoms or confirmed case of COVID-19
- High-touch items in guestrooms
- High-touch items in public areas, restrooms, pool, fitness rooms, etc.

### Food & Beverage Operations

- Products, menus, outlets, meetings/banquets/catering
- Kitchen operations
- Food and other product receiving & unpacking protocols

# NEW WORLD AND EVOLVING STANDARDS OF CARE

## INFECTIOUS DISEASE PROGRAM

- Proactive means to protect employees, guest, management company, brand, owners & other stakeholders
- Affirmative defense when claims begin to arise against hotels alleging that they were one of, or the exclusive source of disease transmission
- Establishing an exclusive source of transmission on its face will likely be very difficult given the myriad of other potential sources in the timeline and stream of touchpoints involved in travel
- Establishes a tangible means to demonstrate are reasonable effort, based on CDC and other credible authorities, to establish and actively manage an effective, specific and objectively quantifiable program to mitigate exposures and risks of transmission.

# NEW WORLD & EVOLVING STANDARDS OF CARE



In many ways we must think differently about how we will do business in the near and long-term.

In other ways however, we do not. We are in the business of hospitality - welcoming, anticipating needs, taking care of and exceeding the expectations, and anxiously awaiting the return of our most valued assets – our people and our guests.

So while many things have changed, many must remain the same about our motivation, desire, agility and the need to demonstrate that under any circumstance, we can not only survive, but thrive.



**WORKERS' COMPENSATION  
AND COVID-19**



# WORKERS' COMP STATE-BY-STATE LAWS

If COVID-19 is compensable under workers' compensation depends on the facts of each case as well as the laws in each state.

## GENERALLY, TO BE COMPENSABLE UNDER WORKERS' COMPENSATION:

- Occur within the course and scope of employment
- Proven to be the result of a workplace exposure
- Did the employment place the employee at a substantially greater risk than the risk of the general public?



## OCCUPATIONS POTENTIALLY AT HIGHER RISK:

- Retail
- Health care providers
- Airline and transportation workers
- Hospitality

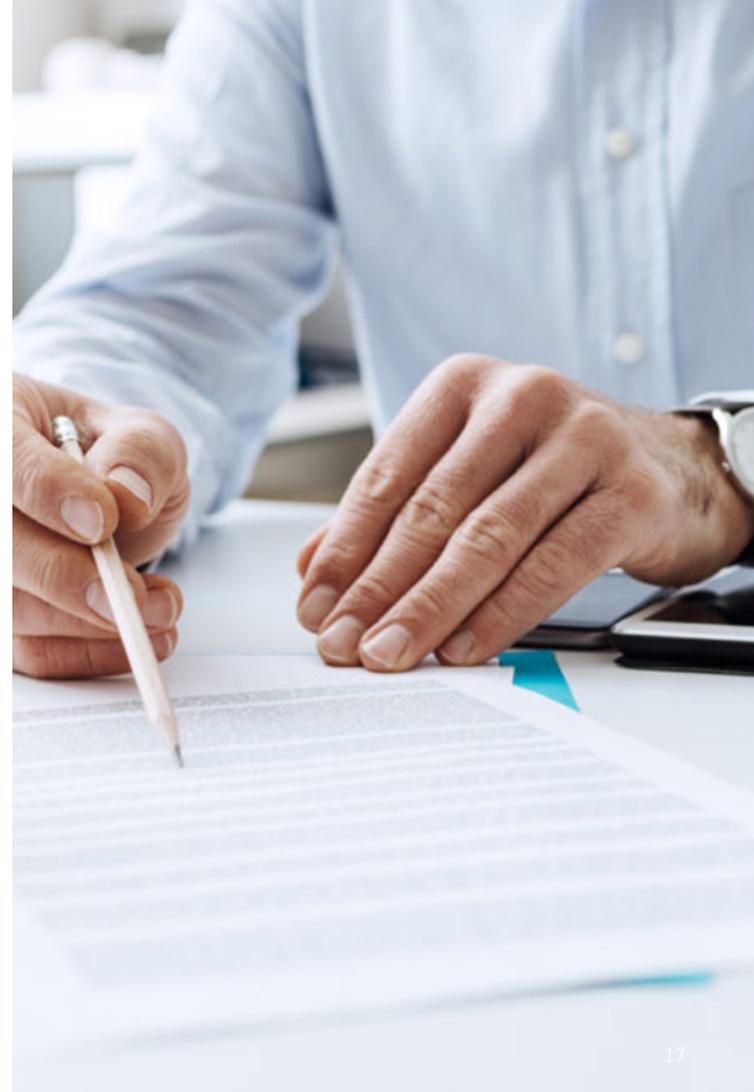
# CLAIMS

## INVESTIGATION INCLUDES:

- Contact with the employee, employer and medical provider(s)
- Review of medical records
- Date of symptoms
- Date of COVID-19 diagnosis
- Chain of exposure (CDC tracking)

## HOW EMPLOYERS CAN ASSIST IN THE CLAIM INVESTIGATION:

- How contact with the virus allegedly occurred
- Was personal protection equipment available, used correctly and consistently?
- Documented training on PPE?
- Has the employee traveled for business recently?
- Any knowledge of personal travel?



# COVID-19 IN THE WORKPLACE

- If an employee asserts COVID-19 related to their work the employer is required to submit the claim
- Report all claims as soon as possible to ensure immediate investigation
- Adjusters / carriers investigate and make a compensability decision
- Many carriers have specific adjusting teams pulled aside to handle any COVID-19 Claims
- Claims may be challenged, and the courts will make final compensability ruling
- Submitting a claim will not affect your experience mod if no benefits are paid
- Only medical and indemnity affect your mod, expenses for legal do not

# LIABILITY CLAIMS

**Q:** What insurance coverage would be available if one of our customers alleges they contracted COVID-19 at our premises or from one of our employees?

**A:** The general liability policy is designed to provide a defense and pay damages that the insured becomes legally obligated to pay because of third-party bodily injury and property damage. The third-party has a duty to prove the insured was negligent.

# LIABILITY CLAIMS

- Allegations in the hotel industry are heightened due to transient nature.
- Claims could arise due to alleged failure to protect or warn of COVID-19 exposure.
- Expect a reservation of rights regarding claims.
  - Expected or Intended Injury exclusion
  - Pollution exclusion
  - Fungi or Bacteria exclusion
- What may be expected if an outbreak occurs at your hotel?
  - Legal obligation to use reasonable care to avoid injuring others
  - This level of care required increases if injury occurs
  - Requires additional measures to mitigate future infections

# IT WILL BE A LONG ROAD



# Questions & Answers

# IMA'S RESPONSE TO COVID-19



- 1. Created the IMA COVID-19 Response Team**
  - Includes claims advocates, loss prevention, team leads and IMA leadership
  - Response team has carefully reviewed reactive client issues arising from COVID-19 and proactively provided guidance on how best to react
- 2. Set up a Client Alert Center with dozens of updates, alerts and pieces of guidance**
  - Weekly webinars to provide updates and answer client questions in real-time
- 3. Created an online Claims Toolkit to help clients begin the claims process**
  - Includes practical guidelines on timeline, documentation gathering, retention and more

