

YOUR CITY COULD BE NEXT: HOW HOTELS AND RESTAURANTS CAN BALANCE CUSTOMER RELATIONS AND VACCINE MANDATES

Insights
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We are over 18 months into battling the COVID-19 pandemic and health experts agree that vaccinations are our best weapon. This has led cities around the world, including several here in the United States, to implement vaccine mandates in certain public places. The goal of these mandates is two-fold: to reduce the spread of the virus and to encourage people to get the vaccine. In cities rolling out the mandates, it is becoming increasingly difficult for unvaccinated people to enjoy a pre-pandemic lifestyle as they cannot visit their favorite restaurants, go to the gym, attend large events, and so on. To date, New Orleans, New York, San Francisco, and Oahu are the only major U.S. cities to have rolled out these mandates, but the cities of Los Angeles and West Hollywood are soon joining them and no doubt others will also follow suit.

Restaurants have been significantly impacted, making the list of public places that must check vaccination status in every city that has rolled out any form of mandate. As of now, no cities in the U.S. require hotels to check guests for proof of vaccination. However, hotels are still impacted because the amenities they offer – including restaurants, gyms, and large event spaces – often fall within the city regulations.

So, while the mandates may be well-intended, they leave private businesses in the tough position of balancing customer relations and complying with local regulations. Local and national news have highlighted aggressive encounters between employees trying to enforce public

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health regulations and non-complying customers. See below for our tips on how to navigate this balance in the event your city is next.

Industry Focus

Hospitality

1. Give Customers Notice

For hotels this is a particularly important point. Guests should not be surprised at check-in that proof of vaccination or a negative COVID-19 test is required for either the hotel stay or use of any amenities. Vaccination and negative test requirements should appear prominently on your hotel website and on the booking page. Prominence is key because we know that all too often guests can overlook the clearly identified parking rate or resort fee. Ensuring that all guests arrive with an understanding of your requirements will significantly reduce the chance of conflicts.

Additionally, do not forget about third-party booking sites. Listings on these sites should be updated to prominently display your vaccination/negative test requirements. The requirements should also be included in the booking confirmation email, and hotels should consider sending a pre-arrival message reminding guests of the policy. Use this pre-arrival message to enhance customer service by asking guests if they have any pre-arrival requests, and include a gentle reminder of the requirements.

Some hotels are requiring vaccines/negative tests for all guests or others are choosing to only require vaccines/negative tests for guests seeking to take advantage of the amenities covered by local regulations—such as restaurants and fitness centers. If you take the more limited approach, consider how you will implement the policy. Will guests be asked at check-in if they plan to use the gym or visit the restaurant? If so, will they get a special key or pass to present throughout their stay? Or, will you maintain vaccination/negative test check points at the gym and restaurant?

Restaurants should consider posting vaccination/negative tests requirements on their websites, social media pages, third party reservation sites and in reservation confirmations — noting that the requirement is in compliance with local regulations. On the bright side for restaurants, many customers should be aware of your vaccination/negative tests requirement if it is implemented to comply with local regulations.

2. Support Employees

Employees with already-demanding customer service roles will likely be tasked with verifying guest vaccination/negative test status, so it is important that they are supported. First – provide training. Providing superior customer service is always a number one priority in the hospitality industry. Therefore, employees should be trained to make customers feel welcome before jumping straight to: “Can I see your vaccine card?” Employees should also be given practical training on what the proper vaccine and test documents look like in paper and app form.

Second, it is important to train employees on de-escalation techniques in the event they encounter a hostile guest. Employees should offer alternatives to in-person services if available.

Third, identify a manager or supervisor who can step in if the situation between an employee and customer escalates. Make sure employees are aware of who they should call for assistance.

Lastly, keep the lines of communication open with employees so that they feel supported and so procedures can be adjusted if employees are facing challenges.

Ensuring that employees feel comfortable with the new procedures and feel supported by management is key to your business’ success because it translates into the customer service they provide. Moreover, it helps you maintain staffing — which unfortunately is a significant challenge for the industry.

3. Prepare for Reviews

Online reviews are critical to hotels and restaurants success. As a result, so too is responding to a negative review. If you follow the steps above, negative reviews related to your vaccination requirements should be few and far between. However, if negative reviews do arise, be prepared to respond. A short response apologizing for the guest’s experience, highlighting the reason for the policy, and your attempts to make customers aware in advance is likely to go a long way for people scoping out those Google and Yelp reviews because the response shows an attentiveness to customer service.

Additionally, a smooth roll out of your vaccination/negative test policy may even bring in good reviews. Many customers are sure to appreciate superior service in an environment where they feel safe.

4. Consider Accommodation Requests

It's also likely that you will encounter guests who claim they should be exempt from the government mandate or your company policy because of a medical or religious reason. Be prepared to deal with both situations.

Title III of the Americans With Disabilities Act requires to make reasonable modifications to provide individuals with disabilities with access to your services and facilities unless they present a direct threat to the health and safety of others or fundamentally alter your business. Consider providing take-out options for food offerings, virtual exercise class options, outdoor seating spaces, and other similar accommodations.

As for religion, Title II of the Civil Rights Act of 1964 prohibits discrimination in public accommodations such as restaurants and hotels on the basis of religion (among other things). The law is not necessarily clear when it comes to vaccine mandates, although the general consensus suggests you can enforce a government-mandated or business-created vaccination requirement. At this point, you should keep a record of any accommodation requests, resolutions, and compliance efforts to show they are doing your best to satisfy the requirements of local and federal laws.

Final Thoughts

Hospitality employers who are beginning to prepare for a possible vaccine mandate for larger employees under President Biden's directive can learn from the hospitality employers who are currently working on how to comply with these city ordinances. These safety precautions will likely be standard operation for the foreseeable future for the hospitality industry. Since the safety of guests, the public and employees is always a high priority, compliance with these local and perhaps national requirements will be the best way to protect your employees, guests, diners and patrons and ensure that they are in a safe work environment.

As new developments occur in the Hospitality Industry, we will continue to assess and provide necessary updates. Please ensure you are [subscribed to Fisher Phillips' Insight system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Hospitality Industry Group](#).