

Hotel Industry Perspectives for COVID-19

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Pandemic Considerations for Hotels, including Non-Traditional Use

As the hotel industry experiences COVID-19 impacts in every geography globally, we encourage hotel companies to see Aon's COVID-19 website at www.aon.com/coronavirus for information about business continuity, insurance, health solutions and other resources to support COVID-19 response.

Where COVID-19 circumstances are such that hotel operations require a change in status, it is helpful to refresh understanding of options that might be considered to potentially preserve a revenue stream and generate cash flow. Those options include, but are not limited to:

- Arrangements to house FEMA and other emergency service providers or contractors, which can help maintain occupancy levels
- Ability to provide "shelter in place" for employees and guests who may still be on premises
- Non-Traditional Use - possible conversion to other uses, particularly where hotels may be located near medical facilities

For the first two options listed above, the hotel is still a hotel. However, in the case of Non-Traditional Use, that view may change. The purpose of this document is to more fully explore Non-Traditional Use and understand where changes in the risk profile may require adjustments to existing programs.

Non-Traditional Use to Achieve Resilience

The case for Non-Traditional Use is particularly pertinent as the COVID-19 event continues to evolve and health care facilities are, or will be, overwhelmed with COVID-19 patients. In these situations, hotels are well-suited to become overflow facilities that ease the burden on hospitals, provide important flexibility for health care employees, and improve the opportunity for patients to survive their illnesses. Benefits to the hotel include the opportunity to preserve an income stream, generate cash flow and potentially retain employees who may be important to the hotel's post-event recovery.

Non-Traditional Use examples include, but are not limited to:

- Potential conversion of the hotel into a hotel for health care employees to make it easier for health care employees to get needed rest and manage the shift needs of the hospital
- Potential conversion of the hotel into a hotel for exposed (quarantined) and/or ill health care employees and first responders
- Potential conversion of the hotel into an overflow facility for the hospital's recovering patients to convalesce
- Potential conversion of the hotel into an overflow facility for hospital patients; transferring patients without COVID-19 to the hotel and allowing the hospital facility to focus on the needs of COVID-19 patients
- Potential conversion of the hotel's cafeteria and/or restaurant or banquet areas to provide excess meal capacity to support hospital employees (allowing the hospital's own food service facilities to feed the patients)
- Potential conversion of the hotel's laundry and/or storage facilities to provide excess capacity that amplifies existing capacity at the hospital
- Potential conversion of the hotel into an isolation ward when persons requiring isolation cannot be accommodated either at home or in a healthcare facility

We're here to empower results:

If you are interested in coverage or have questions about your coverage, contact your Aon broker. For additional information about Hospitality, please contact one of our Hospitality leaders below:

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Hotels are well-suited to Non-Traditional Use

These are examples of considerations that make a hotel well-suited to Non-Traditional Use*:

- Basic infrastructure requirements
 - Meets all local code requirements for a public facility
 - Communication infrastructure: phone system, broadband, etc.
 - Electricity
 - Heating, ventilating, and air conditioning (HVAC)
 - Potable water
 - Bathroom with commode and sink
 - Waste and sewage disposal (septic tank, community sewage line)
 - Multiple rooms for housing ill patients (individual rooms are preferred)
 - Food storage capacity
- Access considerations
 - Proximity to hospital
 - Parking space
 - Ease of access for delivery of food and medical and other supplies
 - Handicap accessibility
 - Basic security
- Space requirements
 - Administrative offices
 - Offices/areas for clinical staff
 - Holding area for contaminated waste and laundry
 - Laundry facilities (on- or off-site)
 - Meal preparation (on- or off-site)
 - Meal delivery system
- Social support resources
 - Television and radio
 - Reading materials
- To determine priorities among available facilities, consider these features:
 - Separate rooms for patients or areas amenable to isolation of patients with minimal construction
 - Feasibility of controlling access to the facility and to each room
 - Availability of potable water, bathroom, and shower facilities
 - Facilities for patient evaluation, treatment, and monitoring
 - Capacity for providing basic needs to patients
 - Rooms and corridors that are amenable to disinfection
 - Facilities for accommodating staff
 - Facilities for collecting, disinfecting, and disposing of infectious waste
 - Facilities for collecting and laundering infectious linens and clothing
 - Ease of access for delivery of patients and supplies
 - Legal/property considerations
- Additional considerations include:
 - Staffing and administrative support
 - Training
 - Ventilation and other engineering controls
 - Ability to support appropriate infection control measures
 - Availability of food services and supplies
 - Ability to provide an environment that supports the social and psychological well-being of patients
 - Security and access control
 - Ability to support appropriate medical care, including emergency procedures
 - Access to communication systems that allow for dependable communication within and outside the facility
 - Ability to adequately monitor the health status of facility staff

* Source: US Department of Health & Human Services Pandemic Influenza Plan

Issues to consider should Non-Traditional Use be explored

When it comes to a hotel's insurance programs and risk, health and human capital profile, underwriters view the risk as a hotel. However, converting the hotel into Non-Traditional Use may be viewed as a change in risk and may require action to ensure coverage and programs continue to apply. We can review policies with you to determine any changes which may be appropriate, but the following notes provide examples of issues to consider:

Property

Some policies have clauses requiring notice to an insurer of a change in use or occupancy or barring coverage for claims resulting from an increase in hazard. Individual policies and amendatory endorsements would need to be reviewed. Furthermore, if any additional equipment is brought onto site and the Total Insured Value increases, this should be accounted for via endorsement and loss payees considered so it is clear to what extent and who is indemnified in the wake of a claim.

Terrorism

From a terrorism program perspective if a hotel were to become an overflow facility it is worth notifying markets that this has occurred, as underwriters might argue that the risk profile has changed and insureds should seek to avoid any non-disclosure issues. Additionally, as mentioned under Property above, if any additional equipment is brought onto site and the Total Insured Value increases, this should be accounted for via endorsement and loss payees considered so it is clear to what extent and who is indemnified in the wake of a claim. Finally, worth considering how the General Liability program will respond following a terrorism event and whether patients using the facility will be covered. In many cases, General Liability programs are silent following terrorism attacks covering defense costs, resultant lawsuits and third-party property damages – in circumstances where there is a potential gap in coverage, terrorism liability policies may be available to purchase on a standalone basis.

Casualty

1. Workers' Compensation claims would not be expected if the hotel is essentially just leasing the property to the government and not providing any employees to support the overflow facility. However, there may still be employee functions to operate the hotel facility even if a government entity or an aid organization like the Red Cross takes over. In fact, the government entity or aid organization would generally seek to contract out all functions that do not pertain to their primary mission. As a result, if the hotel were to provide employees on a leased basis, there could potentially be Workers' Compensation exposure there. The insured would want to understand how the hotel's employees may be involved in order to further assess the risk. For more information on Workers' Compensation impacts of COVID-19, please see Aon's COVID-19 Response Website at www.aon.com/coronavirus.
2. From a union perspective, unless there is something in the Collective Bargaining Agreement (CBA) or potentially elsewhere that directs how leasing of the hotel would need to include utilization of union employees (hired by the hotel owner), it is generally unlikely there is a Workers' Compensation exposure.
3. From a liability perspective, if the leasing of the hotel requires the hotel owner to maintain the property, there could be liability exposure. Suggest reviewing the contract language for the Non-Traditional Use arrangement to confirm obligations and compare against applicable coverage to determine any changes that may be appropriate for liability exposure.
4. From an automobile perspective, confirm how responsibility for any automobile exposure is addressed in the contract for the Non-Traditional Use and compare to applicable coverage to identify any adjustment needed.

International Liability

It would be prudent to make sure any mandatory laws on medical profession errors and omissions cover are considered. Especially in Europe, regulations sometimes make medical professional errors and omissions required to engage in medical care. These have varying degrees of implication – they do not only apply to doctors, for instance.

Especially on points #1 and 3 above in the Casualty discussion, we would offer the same for foreign casualty.

Upon review of the forms for some hotel insureds, we do not, as a general matter, see a problem *stricto sensu*, but if the insured actively accepts this new activity, we suggest it be reported as new business activity to the insurers.

D&O, Employment Practices Liability (EPL), Crime, Fiduciary, Management Liability, Cyber

Consideration should be given to the management and board structure of any organization that is formed to own or operate such facilities and whether the individuals are being indemnified for their actions, and by whom. For the employment practices perspective, that will encompass all the traditional areas including discrimination actions, as well as the wage & hour considerations, as it is possible the formalities might go by the wayside with a transition to Alternative Use. Fiduciary – for employment benefits – could be involved in terms of whether there are benefit plans, and how benefits are being paid, or continued depending on a change in employment status. And, cyber is a big concern – when things are done in a hurry (as might occur in a Non-Traditional Use situation), there are opportunities for error and gaps in the system protection that could occur. Same is true with social engineering schemes – false invoices, bank changes etc. could be situations to watch for.

Environmental

Many hotels and hotel chains do not currently purchase environmental insurance. That said, in a buy/sell transaction, environmental policies do have assignment provisions that will allow the policy to be assigned to a new owner with the approval of the carrier. However, in the case of Non-Traditional Use, it is likely the party may be a governmental entity, and most environmental carriers will not name a governmental entity as a first named insured without some significant coverage restrictions.

In a lease situation where the hotel owner or other property owner is leasing to a new entity that will convert the property to another type of use, the owner of the policy should be mindful of the Material Change in risk conditions of the policy.

Material Change in risk is an endorsement or policy condition that appears on most environmental policies. If the risk is moving from hotel to healthcare facility, the carrier would likely deem the change in risk material and need to accept the change in risk formally by endorsement.

Other policy provisions that should be carefully scrutinized include:

- Structure of the named insured and additional insured (environmental policies do not necessarily have omnibus named insured wording)
- Other insurance provisions should be evaluated in conjunction with other property and casualty policies that potentially provide 1st & 3rd party coverage for environmental risk. Other insurance provisions on an environmental policy can be modified so that the environmental policy is deemed primary or specifically excess over particular policies. (Consider making it excess over a property policy that offers limited / sub-limited disinfection cover or debris removal cover – Consider making it excess over a casualty policy providing sudden and accidental cover.)

Specifically, in regard to COVID-19, an environmental policy will not necessarily provide any coverage at all.

Brokers/Clients must consider the following:

- If there are any affirmative grants of coverage for disinfection costs for viruses
- If the policy definitions of “pollutant”, “pollution conditions”, “environmental damage” or other term of art (environmental policy wordings vary from carrier to carrier; wording is not standard in the industry) contains or broadly defines “virus”.
- Is the policy silent?
- Is there a communicable disease exclusion?
- How is the policy triggered? Environmental policies are usually “claims made” and the definition of “pollutant”, “pollution conditions”, “environmental damage” or other term of art usually say something like this: “....means the discharge, dispersal, release, escape, migration, or seepage of any solid, liquid, gaseous or thermal irritant, contaminant, or pollutant..... medical, red bag, infectious or pathological wastes, on, in, into, or upon land and structures thereupon, the atmosphere, surface water, or groundwater.” Will the fact pattern of a potential claim meet this requirement? If a carrier is willing to make an affirmative coverage grant for “virus” then specific wording for that carrier will need to be negotiated by the broker.

Underwriters, when evaluating whether or not to accept the risk and provide coverage, will likely want to review the loss control and mitigation protocols of the potential insured/insured property including general operations and maintenance protocols/HVAC protocols.

Health & Benefits (if employees maintained)

- Billing codification (Emergency Room or not; in-network vs. out-of-network)
- Data privacy (e.g., HIPAA) protocols and record retention
- Liability for secondary infection or impacts (if hotel conditions not “hospital grade”; power outage without sufficient power back-up for all respirators, critical equipment; trip/fall on hotel carpet instead of hospital hard flooring; etc.)
- If a patient dies at the hotel, would the life insurance consider denying payment (inappropriate assumption of risk)?
- Secondary, but does it create a disconnect with the facility coding in a data warehouse?
- No anticipated impact for Short-Term Disability and Long-Term Disability
- Hotel employees – labor considerations for some people who may have transferrable skills (hotel front desk à hospital registration); additional background check or screenings required (nearby drug supplies, etc.). Available compensation/transition for hotel employees not available to work in hospital scenario (e.g., paid or unpaid leave, continuation of benefits)?

Human Capital Considerations

- Emphasize education and training for every aspect of employment, service, operations; including responsibilities, expectations, risks and rights
- Prepare staff to deal with sick population and death of individuals cared for at the site (hotel staff usually don't face guest deaths)
- Facility capability/infrastructure to reliably support virtual visits and consultations
- Compensation adjustments for change in conditions/risks associated with change in responsibilities and populations served
- Clear leave policies for planned and unplanned absences
- Given heightened exposure to communicable illness, benefit enhancements, guidance and support for childcare & eldercare (current support may not continue to be available)
- What happens when staff member contracts virus
- What happens if staff member dies from virus
- Adjustments in health benefits:
 - Potentially waive some/all out of pocket costs for care associated with workplace exposure to any illness
 - Integration of, and first dollar coverage for, telemedicine visits and virtual visits with local community providers
- Ensure staffing and policies allow breaks as required by law and as needed in order to accommodate attending to personal issues (doctor appt, childcare, eldercare, stress break etc.)
- Consider “what if” operations policies, transportation assistance, etc.
- Ready access to virtual visits with health coach and Employee Assistance Program (EAP)
- Healthy food options

Retirement Considerations

With respect to retirement, Non-Traditional Use may conceivably have impact, e.g. if a hotel employee continues working in the new conditions and becomes ill or worse, that could potentially lead to plan loans or death claims. We suggest a review with the hotel company to examine retirement impacts.

Conclusion

Aon is interested in supporting hotel clients in focusing on resiliency. We encourage hotel companies to access Aon's website at www.aon.com/coronavirus, and please contact us to discuss help with Non-Traditional Use strategy.

Disclaimer: This document has been provided as an informational resource for Aon clients and business partners. It is intended to provide general guidance on potential exposures, and is not intended to provide medical advice or address medical concerns or specific risk circumstances. Due to the dynamic nature of infectious diseases, Aon cannot be held liable for the guidance provided. We strongly encourage visitors to seek additional safety, medical and epidemiologic information from credible sources such as the Centers for Disease Control and Prevention and World Health Organization. As regards insurance coverage questions, whether coverage applies or a policy will respond to any risk or circumstance is subject to the specific terms and conditions of the policies and contracts at issue and underwriter determinations.