

May 25, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and
Human Services
200 Independence Ave, SW
Washington, DC 20201

The Honorable James Frederick
Acting Assistant Secretary
U.S. Occupational Safety and
Health Administration
200 Constitution Ave, NW
Washington, DC 20210

Dr. Rochelle P. Walensky
Director
Centers for Disease Control and
Prevention
1600 Clifton Rd, NE
Atlanta, GA 30333

RE: Protecting Employees From Dangerous Confrontations

Dear Secretary Becerra, Acting Assistant Secretary Frederick, and Director Walensky:

Businesses that directly serve the American public have faced difficult challenges for the past year and a half as the nation has dealt with the COVID-19 pandemic. Some storefronts have had to close for periods of time and others have had to find ways to stay open. This has been difficult for our employees as well. They have had to worry about the risks of COVID while working as guidance about the disease and safety measures has changed over time.

As it became clear last year that masks were an important measure to protect against the spread of the virus, many employees were put into even more difficult – and dangerous – positions by state and local policies that attempted to require them to police customer behavior. An incident in New York from June of last year is just one common example in which employees who simply told customers they needed to wear masks in the store were physically assaulted, and this included assault of a pregnant employee who needed to seek medical evaluation after the incident.¹ But the list goes on and on:

- Two Washington, DC restaurant employees assaulted trying to enforce mask rules in July 2020;²
- Reports of 19 shootings relating to different social distancing restrictions;³ and
- Multiple reports of a variety of assaults on retail, airline and other employees simply attempting to tell people to follow mask requirements.⁴

¹ “Mask Enforcement ‘Not Worth Putting Employees At Risk’” by Susan Barnett, *Catskills Today* (June 3, 2020) at <https://the-reporter.net/stories/mask-enforcement-not-worth-putting-employees-at-risk,72362?>

² “Two D.C.-area restaurant employees were assaulted after enforcing mask rules. Others worry they will be next” by Emily Davies, *Washington Post* (July 13, 2020) at https://www.washingtonpost.com/local/two-dc-area-restaurant-employees-were-assaulted-for-enforcing-mask-rules-others-worry-they-will-be-next/2020/07/13/3efcf466-c2c9-11ea-9fdd-b7ac6b051dc8_story.html?carta-url=https%3A%2F%2Fs2.washingtonpost.com%2Fcar-ln-tr%2F2a71cc9%2F5f0cbdb2fe1ff6482dbd99ee%2F59a5b0629bbc0f706bb6d508%2F8%2F47%2Faf6b3dc6133d535119db00fa710c2a2&utm_campaign=wp_afternoon_buzz&utm_medium=email&utm_source=newsletter&wpisrc=nl_buzz

³ “People Keep Shooting Each Other Over Coronavirus Restrictions,” by Jennifer Mascia, *The Trace* (May 20, 2020) at <https://www.thetrace.org/2020/05/coronavirus-restrictions-social-distancing-shootings-tracker/>

⁴ “No-Mask Attacks: Nationwide, Employees Face Violence For Enforcing Mask Mandates,” by Carlie Porterfield, *Forbes* (Aug. 15, 2020) at <https://www.forbes.com/sites/carlieporterfield/2020/08/15/no-mask-attacks-nationwide-employees-face->

Unfortunately, this list could be much longer. Retail and other employees are not equipped to enforce health restrictions and, if they are required to do so, it will not protect them but will subject them to confrontations that put their health and well-being at much greater risk.

Given all of that, the new policy in Oregon requiring local businesses to verify the vaccination status of customers is alarming.⁵ As with mask mandates, requiring employees to confront customers in this way is calculated to lead to anger and violence. Many people feel strongly about their decisions regarding whether or not to get vaccinated. It simply is not the job of employees trying to serve Americans to challenge those beliefs – and that is undoubtedly how many individuals will take questions about vaccination status.

The businesses across the country that we represent care about the safety and well-being of their employees. In fact, most retail businesses have safety protocols in place to not confront shoplifters because protecting the life of an employee is far more valuable than any stolen product. There is no question given the experience with mask policies that putting the onus of verifying vaccination status on employees will put employees at greater risk than all customers going maskless. Policies like Oregon’s will risk the safety and well-being of employees.

We strongly urge the Centers for Disease Control, Occupational Safety and Health Administration, and Department of Health and Human Services to recognize the peril that these types of policies will create for employees and make public statements emphasizing that state and local rules should not place the burden of verifying vaccination on employees.

If Oregon’s policy remains in place or, worse yet, spreads to other jurisdictions, it will put America’s labor force at risk. We hope that you will help us avoid that outcome.

Sincerely,

Asian American Hotel Owners Association (AAHOA)
American Hotel & Lodging Association
Energy Marketers of America
FMI, The Food Industry Association
International Franchise Association
National Association of Convenience Stores (NACS)
National Association of Truckstop Operators (NATSO)
National Grocers Association
National Restaurant Association
National Retail Federation

[violence-for-enforcing-mask-mandates/?sh=6f0ee6b060d6](https://www.nytimes.com/2020/05/15/us/coronavirus-masks-violence.html); “Who’s Enforcing Mask Rules? Often Retail Workers, and They’re Getting Hurt,” by Neil MacFarquhar, *New York Times* (May 15, 2020) at <https://www.nytimes.com/2020/05/15/us/coronavirus-masks-violence.html>; “Incomprehensible’: Confrontations over masks erupt amid COVID-19 crisis,” by Bill Hutchinson, *ABC News* (May 7, 2020) at <https://abcnews.go.com/US/incomprehensible-confrontations-masks-erupt-amid-covid-19-crisis/story?id=70494577>

⁵ “Oregon tells businesses to check for the vaccination status of customers if they let them go maskless,” by Bryan Pietsch, *New York Times* (May 19, 2021) at <https://www.nytimes.com/live/2021/05/19/world/covid-vaccine-coronavirus-mask?type=styl-live-updates&label=coronavirus%20updates&index=1&action=click&module=Spotlight&pgtype=Homepage#vaccine-status-mask-requirement-oregon>.