

Independent Living Apartment to Assisted Living (Residential Care Apartment Complex) - Conversion, Background, and Issues

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Many senior independent living apartments in Wisconsin are experiencing chronic, longer term vacancies due to several factors—not the least of which is the aging population that has not grown as significantly in the past 10 years as it will in the next 20. To resolve the occupancy issue, many senior independent living operators should consider the strategy of conversion to a Residential Care Apartment Complex (RCAC), which is a regulated and licensed assisted living alternative in Wisconsin.

In addition, a significant issue that many senior independent living apartments are struggling with is how to deal with acuity creep—the increasing health care needs of the aging population in the apartment complex—without building an entirely new alternative, like an RCAC. Many operators cannot develop a new RCAC on their campus because of land space issues and or capital/debt issues.

A strategy to resolve the issues of chronic occupancy problems and acuity creep is to consider licensing some or all of the senior independent living apartments for RCAC.

This strategy will:

- Allow, under law, the operator to provide health care and supportive services to tenants who can pay for services as well as tenants qualified for Family Care or COP-Waiver (Community Options Program).
- Give the operator the option to provide current tenants a better quality of life without having to move them from their apartment, and it will generate more revenue, at somewhat low cost, for the organization.
- Possibly generate more referrals for the option and increase and maintain higher occupancy over time.

There are several concerns and issues about converting the apartments to an RCAC that should be considered, including the following:

- Understand the actual cost of conversion, if any, to an RCAC.
- Understand the actual cost of services, per unit/tenant, of RCAC and charge a high enough rate to cover the added cost.
- Ensure that the tenants actually pay for the new services.
- Set up monitoring, tracking, and billing systems. Converted RCACs often do not have adequate tracking and billing processes, which should be reviewed and upgraded as needed.

- Determine the impact of the Family Care program, as it expands into the region, on the RCAC and whether the Family Care rates cover costs. This will help the RCAC understand whether it should be certified or remain registered.
- Determine availability of staff. After conversion, staffing needs will increase.
- Determine new staffing models. After conversion, develop policies to effectively and efficiently manage staffing levels.
- Keep overnight staff busy. Often overnight staff are limited but need to be managed properly and kept busy doing supportive service functions.
- Determine the ramp up or fill up time. Many RCACs assume they will fill up quickly. However, even in a conversion situation, the ramp up to full occupancy could take up to 12 months.
- Learn and live under the regulatory requirements for RCAC. This is critical. RCACs must comply with regulations of the licensure. Apartments do not.
- Determine affordability of the RCAC services for the current tenants. Before implementing the RCAC conversion, it is important for the operator to know what is an affordable rate for the current tenants. As new tenants are admitted, the rates can be adjusted upward over time.
- Understand whether there are enough seniors in the area that could afford and need the RCAC to justify the conversion and to fill vacancies over time. After conversion, there will be a natural market for the RCAC already living in the building. However, it is important to conduct market research to determine whether there is a market in the community to fill vacancies as they occur.
- Work with an attorney to develop legal and effective policies and procedures for staff, tenants, and operations.

RCAC

RCACs were first licensed by the State in 1997, responding to public needs and the desire to have a “retirement” option that provided more choices, more privacy, and the increased potential for “aging in place.”

RCACs differ from the other assisted living option in Wisconsin. They are more homelike with an apartment setting rather than an institutional-type setting (which often has shared rooms and

bathrooms). RCAC regulations were written with a “consumer driven” focus and, as a result, allow for more flexibility and choices for the tenants.

Recent provider surveys suggest that a typical RCAC tenant is an 84+ year old, ambulatory, and cognitive woman who has some difficulty with certain activities of daily living but does not need much, if any, nursing or medical care. However, the typical RCAC tenants frequently require more care the longer they live in the apartment—referred to as aging in place. For example, the length of stay for many RCAC tenants has been shorter than many operators initially expected, suggesting that seniors move in later or facilities are not prepared to provide the higher level of care that conditions require.

RCACs have been primarily an option for persons with means (i.e., private pay). Base rates average about \$2,400 - \$2,600 per month. Base rates often include only limited services. A typical rate in a private pay (registered) RCAC is closer to \$3,000 because the tenant often requires more services than are included in the base rate. Some RCACs have basic rates as high as \$5,000 per month. With only a few exceptions, the lower income to moderate market has been essentially shut out of the RCAC option in most areas. This is especially true in rural areas of Wisconsin.

RCAC regulations allow tenants up to 28 hours per week of a combination of nursing care, personal care, and supportive care. For instance, a person could receive 10 hours of nursing care and 18 hours of supportive care, or any other combination up to 28 hours. Actual services are often far less than 28 hours of care. Many RCACs have basic packages that start with only a few hours of care, 3-6 per week, with additional “tiers” of services. Many RCACs have policies about transferring tenants to another setting, like a CBRF (Community-Based Residential Facility) or nursing home, when they reach a certain number of hours of care per week or need assistance with multiple activities of daily living.

The 28 hours of care per week potentially allow tenants the ability to age in place because they could receive an increasing number of nursing care hours as the complexity of their needs increases. However, the extent of the services allowed per tenant is up to the facility and subject to the tenant’s ability to pay for them. Nothing precludes the tenant from contracting for additional services (nursing or other) from an outside provider, such as a home health agency. Nothing precludes the RCAC from contracting with a home health agency for all of the services, which the tenant pays out of pocket directly to the home health agency.

In this scenario, the RCAC becomes a landlord providing only the supportive services, and the contracted Home Health agency becomes the “caregiver” providing the necessary staff for the services requested by tenants. RCACs should review closely the RCAC regulations to fully understand these issues.

Although RCACs are primarily a private pay alternative, nothing precludes an RCAC from serving lower to moderate income seniors and persons with physical disabilities. However, it is difficult to build a new RCAC that is affordable for people with lower to moderate income—those who are Medicaid eligible, as well as those who could afford to pay privately, at a moderate monthly rate, for only a short period of time before becoming Medicaid eligible. Converting the

existing unit could increase the likelihood of providing RCAC services that lower income or moderate income tenants could afford because the cost of conversion is likely lower than new construction and little or no debt would likely be incurred for the conversion. As a result, the rates for the tenants would likely be more affordable.

Furthermore, the funding sources for seniors in alternative settings, such as an RCAC, are limited. Most counties have waiting lists for the COP-waiver (Community Options Program) funds, which pay for only the services component of the rate for Medicaid-eligible seniors. Family Care, a managed care alternative for long-term care services, is expanding statewide. The expansion will take until at least 2012, or possibly longer. Family Care, unlike COP-waiver, is an entitlement program. Seniors who are functionally and financially eligible for Family Care are entitled to the program. However, the funds can be used in multiple settings, including the home. In areas that have implemented Family Care, lower income seniors have access to funding to pay for the RCAC services. This has greatly expanded the market potential in these areas.

Regulations

RCACs are regulated and licensed by the State under Wisconsin Administrative Code HFS 89. A copy of the regulations is available from the Department of Health and Family Services (DHFS) and can be found on its website or a copy may be requested from the DHFS. The following table summarizes the RCAC option, plus several other senior housing options for comparison purposes.

Click the link below to view the tables

[Definitions of Housing Terms \(PDF\)](#)

Regulatory Highlights

Hybrid RCACs (Senior Independent Living Apartments With Some Units RCAC)

An RCAC is defined as “a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services.” Wipfli understands that the rules allow for a hybrid option, which would meet the above definition in an independent living apartment.

In other words, the State allows the licensure of a minimum of five apartments in a larger apartment building, as long as the codes and regulations are met for the building. The hybrid RCAC would still be required to meet all of the RCAC Chapter HFS 89 rules and regulations.

Hybrid RCACs are increasing in Wisconsin because the flexibility of the licensed units 1) help resolve some occupancy issues in senior independent living apartments, 2) enable tenants to age in place without having to move, 3) increase revenues for the apartment, 4) provide housing for a broader range of clients, and 5) deal with the increasing needs of tenants, some of whom are moving in later, older, and sicker than before.

Registered vs. Certified

RCACs can be either registered or certified. Registered RCACs cannot accept tenants that are receiving COP-Waiver funding or Family Care, which are both Medicaid waiver programs. Registered RCACs are for tenants that are paying privately. The regulations for registered RCACs are not any different than those for certified. Certified RCACs can accept tenants on waiver funds (both programs) or tenants paying privately. Certified RCACs are also required to go through an annual survey, which is similar, but not quite the same, as the CBRF survey. Certified RCACs, as a result, are not regulated differently but must go through an annual survey, have contracts with the COP-Waiver program or Family Care CMO (Care Management Organization) to be able to accept tenants on the programs, and would be required to manage more paper work and administrative responsibilities of contracting with the programs. The certification process is not difficult or very costly. It is an application and review process and the fee is determined by the DHFS. Talking to the Bureau of Assisted Living (BAL) state engineer about potential issues before starting the application process is advised.

Admission

No RCAC shall admit a person who has a court determination of incompetence and is subject to guardianship, or a person who has an activated power of attorney, or a person who has been found by a physician or psychologist to be incapable of recognizing danger, summoning assistance, or expressing need or making care decisions. This effectively makes persons diagnosed with mid- to late-stage Alzheimer's/dementia ineligible for an RCAC.

However, an RCAC may retain a tenant who has become incompetent or incapable of recognizing danger, summoning assistance, or expressing need or making care decisions. The RCAC would need to make some notes in the file to do so. In other words, people who age in place and develop dementia, for example, would not necessarily have to move out. Retention is at the discretion of the tenant, the facility, or both. There are several reasons a tenant may be asked to terminate the agreement and leave the RCAC. For example, if a tenant's needs cannot be met by the RCAC or if the tenant's behaviors pose a threat to self or others or if the tenant does not pay the fees required by the RCAC, the tenant may be asked to leave.

Staffing

The number, assignment, and responsibilities of staff shall be adequate to provide all the services identified in the tenants' service agreements. Staff can be shared between distinct unit RCACs and CBRFs, as long as the buildings are not attached. A plan would likely need to be approved by the State to share staff if the two facilities were located a distance apart. Services shall be provided by staff who are trained in the services and who are capable of doing their assigned work. This includes any contracted employees.

Nursing services and supervision of delegated nursing services shall be provided consistent with the standards contained in the Wisconsin Nursing Act. Personal care services and supportive services must be provided by staff who are trained to provide the necessary services to meet the daily activities of the tenants. Each RCAC must have a

service manager (e.g., Director, Administrator, etc.) who would be responsible for day-to-day operations. A person shall also be designated to be in charge in the absence of the service manager. A written staffing plan is required, which must be kept up to date and describe how the facility is staffed to provide services.

Regulations do not stipulate the ratio of staff to residents, FTEs (full-time equivalent staff), or whether the staff are required to be certified. Many RCACs do staff with certified nursing assistants who are supervised by an RN. Often, the RN is already on staff and has other responsibilities as well.

Medication Management

Medication management and medication administration shall be performed by or under the supervision of a nurse or pharmacist.

As long as a nurse is monitoring the staff, any staff person can pass the medications in an RCAC. Typically, RCACs contract with a pharmacist that packages and bubble wraps the medications so that staff can simply pass it to the tenants. A nurse does not have to do it but is required, potentially, to delegate the task to staff.

Some RCACs send their staff to CBRF training for medication administration and management because it is more inclusive and has a higher requirement than RCAC. This is not a requirement by the State. However, if RCAC staff is cross-trained to manage medications in the CBRF, they could work in both settings without creating a potential regulatory problem.

Unit Size and Configuration

Each apartment has to have visually and functionally distinct living and sleeping areas and a full and functional kitchen and bathroom. It has to have a private, full bathroom. A common tub located elsewhere, outside of the individual's unit, can be made available. However, each individual unit has to have a commode and a shower. The kitchen is required to have a stove, which can be disconnected at the request of the tenant. Any change such as unplugging the stove should be documented.

The minimum size for the units is 250 square feet. Contacting the local BAL engineer or an architect for additional unit specifications is suggested. However, in the market units are much larger. Sizes range 400-1,200 square feet. The larger the unit, the more bedrooms, bathrooms, and storage space are included. Rates are also much higher for a 1,200 square foot, 2-bedroom unit with two baths than for a 400 square foot 1-bedroom, 1-bathroom unit.

Typically, a newer or newly remodeled independent living apartment meets the RCAC code requirements for bedrooms, kitchens, bathrooms, and size.

Service Agreement and Risk Agreement

A service agreement is a binding stipulation between the tenant and the facility that specifies services the facility will provide directly or through a contracted agency and the tenant will accept. Service agreements are completed at the time of admission and shall be reviewed when there is a change in the comprehensive assessment or at the request of the facility or tenant. Each tenant's service agreement may differ. Specific service agreement language should be reviewed by legal representation.

RCAC Conversion

Service agreements shall include 1) services provided by the RCAC or contractor, 2) fees for said services, and 3) policies and procedures that would include termination or transfer, tenants' rights, dispute resolution, and additional services language.

The risk agreement differs from a service agreement. At the date of admission/occupancy, the RCAC shall make a risk agreement with each tenant. It shall identify 1) the risk to the tenant, 2) any unmet needs that will not be performed by the RCAC, and 3) for Registered RCACs, a notice that they are not surveyed annually.

For independent living apartment owners and managers, these agreements will not be familiar. Discussing the language with an attorney to ensure that it is properly written is advisable.

Services

A comprehensive assessment of each tenant at the time of admission and thereafter annually is required. This assessment assists in determining 1) functional eligibility, 2) services that are needed to meet the needs of the tenant, and 3) the actual service agreement.

An RCAC can share some services with a CBRF or nursing home, such as physical therapy, administrative functions, and activities. However, RCAC tenants cannot be required to share common space with a CBRF or nursing home, including dining, sitting, or other common areas. RCAC regulations do not, however, restrict the sharing of common space, such as dining, common areas, activities, etc., with congregate living or independent living apartments.

An RCAC must provide services or contract for services that are sufficient to meet the care needs of tenants' service agreements, including unscheduled care needs of tenants and emergency assistance available 24 hours per day. RCACs must be able to respond to changes in tenants' need for minimum required services by revising the service agreement.

An RCAC must have the capacity, either directly or by contract, to provide the following services:

- Supportive services, which include meals, housekeeping, laundry, and arranging access for medical services (i.e., transportation to medical services).
- Personal services, which include assistance with activities of daily living including eating, bathing, dressing, grooming, toileting, transferring, and transportation.
- Nursing services, which include health monitoring, medication administration, and medication management.

An RCAC may choose to provide more than the minimum services, but the weekly hours of services cannot be more than 28 hours of a combination of supportive, personal, and nursing care. There is no limit to the hours of other services, activities, or amenities. Tenants may contract with an outside provider for additional services, as needed, even if the total hours go beyond 28, as long as the RCAC is not providing the extra services. The RCAC's home health agency might be able to provide the extra services, however.

The total hours of care per tenant would be individualized and established by the RCAC through the service agreement and a screening process.

About the Author

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