

Memory Care: Safeguarding a New Model of Senior Living

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Memory Care Communities offer individuals with Alzheimer’s disease and related forms of dementia a range of services in a secure residential environment, including twenty-four hour supervised care and assistance with daily activities, as well as medication and behavioral health management. They have proliferated in recent years in response to projected demographics on aging. According to the Alzheimer’s Association, the number of 65+ individuals diagnosed with Alzheimer’s disease is estimated to nearly triple from 5.1 million in 2015 to 13.5 million by 2050.ⁱ

With more than 15% of the elderly population expected to live with the effects of a dementia-related diagnosis within the next thirty years, options for specialty residential care are understandably in demand.ⁱⁱ In fact, the memory care market is poised to experience the most growth among all senior housing components within the coming year, according to 61 percent of surveyed senior housing leaders.ⁱⁱⁱ However, Memory Care Communities vary widely in terms of their structural design and programming. As robust expansion translates to disparities in both practice and service offerings, newly

constructed stand-alone communities are no less exposed to liability than their counterparts located within larger long-term care organizations. While both community types offer distinct benefits, as outlined in Figure 1, each is equally responsible for implementing resident safeguards that extend beyond the traditional protections associated with assisted care settings.

With market forces shifting the risk profile of dementia care, Memory Care Communities are confronting new exposures. Operators are in the sensitive position of having to clearly define their services and resource capabilities, while also crafting practice procedures and protocols that lessen exposure to a range of potential allegations, including failure to screen residents for a higher level of care, insufficient staffing, inadequate management of care, and failure to maintain a safe, secure environment, among others.

At a time when the pace of new construction and renovation is swift, caution should be exercised by developers and operators to ensure that both newly developed communities and converted spaces reflect the necessary

protections with respect to operating protocols, practices, and structural design. This paper examines the chief attributes of a memory care setting from a safety, efficiency, and risk management viewpoint, including:

- Formal resident selection
- Quality-of-care accreditation
- Specialty staff training and certification
- Comprehensive behavioral management
- Purposeful design of living spaces
- Broad insurance coverage for professional, property, and construction liabilities

By examining these components and their inherent benefits, Memory Care Community developers, operators, and caregivers can directly address risk and liability exposures associated with this fast-growing market.

Formal resident selection

Successful placement begins with a marketing effort that conveys an honest appraisal of memory care capabilities. Use of superlative and absolute phrases, such as “best care,” “optimal level of independence,” and “highest security” may expose Memory Care Communities to claims alleging breach of an express or implied warranty when resident outcome is less than optimal. Instead, written and oral representations should unequivocally convey that effective memory care depends upon the state of the underlying disease, and that residential settings will change in response to the symptoms of a progressing condition. Be careful to avoid the possibility of misinterpretation and/or misleading promises in admission



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agreements, promotional materials, oral representations made by staff during facility tours, and messages that appear online or on automated call systems.

Accurate assessment of the needs of prospective residents is also essential to minimizing placement-related liabilities. Admission coordinators and planners should select a screening tool of proven effectiveness that relies on both questioning and direct observation to ascertain a resident's medical and therapeutic needs. However, over-reliance on a standardized tool can compromise memory care placement by failing to account for the clinical subtleties in cognitive status and behavioral presentation that might otherwise be discerned upon a thoughtful and calculated assessment. More precise placement often requires an assessment conducted by geriatric specialists over a series of days in order to make a fully informed determination that physical and cognitive deficits can be safely managed through therapeutic memory care approaches.

When authorized by the resident, admissions personnel should be prepared to make family members and significant others an integral part of the selection process, as disagreements over perceived resident-needs can lead to future conflicts and litigation. A written appraisal of the resident's physical and mental capabilities as well as agreed-upon services should be acknowledged in writing by the resident and/or family members. In the event a resident later engages in potentially risky behavior, legal mechanisms such as shared risk agreements, liability waivers, and arbitration agreements - where sanctioned by state law - may help Memory Care Communities limit their potential exposure.

Quality-of-care accreditation

The Joint Commission released memory care accreditation requirements in 2014, encompassing five key areas: care coordination, staff knowledge and competency, activity programming based on resident capabilities, behavioral management, and creation of safe and supportive physical environments. The requirements are designed to help accredited nursing care centers use a flexible approach to dementia care and problem-solving, while enabling residents to function at their highest level of cognitive ability.

In the eyes of many healthcare consumers, compliance with accreditation requirements attests to an organization's commitment to achieving a higher standard of care. Accredited nursing care centers that offer memory care services are expected to be in full compliance with the requirements. Voluntary compliance for non-accredited setting types is highly recommended, as the requirements represent critical quality and safety benchmarks for communities caring for residents with cognitive impairments. To read in full the Joint Commission's memory care requirements for nursing care center accreditation, visit https://www.jointcommission.org/memory_care_requirements_nursing_care_center_accreditation/.

Specialty staff training and certification

With the average monthly cost of memory care considerably higher than traditional assisted living, residents and their families have an expectation that caregivers be specially trained in all aspects of dementia-related care.^{iv} Because standard training requirements for long-term care providers may not fully

address the clinical realities of memory care, organizations should re-examine their training requirements to ensure they align with changing demands.

An increasing number of Memory Care Communities require certification in memory care as a condition of employment. Certification programs for entry-level caregivers encourage skills development beyond the core requirements of aging care, including such areas of focus as:

- Dementia-related disease and its symptomatology
- Essentials of daily care for the memory impaired resident
- Communicating with a memory loss resident
- Basic problem-solving skills
- Handling behavioral challenges and crisis situations
- Managing pain in cognitively impaired individuals
- Assessments and care planning strategies
- Memory enhanced activities
- Environmental safeguards, including protections against falls, wandering, and elopement

Notable certification programs include those offered by the National Council of Certified Dementia Practitioners (<http://www.nccdp.org/>) and the Alzheimer's Association (<http://www.alz.org/essential/>).^v

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Comprehensive behavioral management

Many memory care residents present with behavioral problems, including frequent agitation or unpredictable verbal and physical outbursts. These problematic behaviors are often the manifestation of a resident's inability to communicate, and typically intensify as the resident progresses through the stages of their disease. Effective intervention starts with a personalized case management approach to behavioral therapy led by a multi-disciplinary team comprising representatives from nursing, social work, therapeutic specialties, and pharmaceutical support, along with a licensed physician trained in the assessment and care of cognitively impaired individuals.

Long-term solutions for problematic behaviors require the team to conduct a thorough review and assessment of a resident's diagnostic findings, medication regimen, and behavioral symptoms. Meeting with family to discuss a resident's life history can further facilitate a personalized care plan that respects routines, interests, and social and spiritual preferences. Every effort should be made to decrease periods of agitation, abusive behavior, and outbursts through standard behavioral management techniques - such as reorientation to surroundings and reflective listening - before resorting to new or increased use of medications. Offering life skills training to residents where they re-learn lost skills can further help them regain self-control.

Lastly, a behavioral management program must coincide with training programs designed to prepare staff to interact with and respond to behaviorally challenged residents. Ongoing training in such areas as anger management, emotional regulation, and goal setting can avert crisis situations and ensure that

the memory care environment remains safe for residents, staff, and visitors. A list of helpful resources for behavioral management programming, as well as other aspects of memory care, is found at the conclusion of this paper.

Purposeful design of living spaces

Memory care environments are characterized by their non-institutional atmosphere, permitting residents a degree of freedom to safely engage in daily activities and social interaction. Design elements must safeguard against a range of environmentally-related harms, including falls, burns, and elopement, among others. In order to avoid unwanted liabilities for bodily injury and endangerment, it's imperative that living spaces balance the desire for independence and purposeful living with the need for resident safety.

In a 20 year retrospective study of a select number of memory care settings, the following design features are highlighted for their ability to enhance the effectiveness of living spaces:

- Household units that offer shared living spaces for 10 to 14 residents.
- Residential kitchens equipped with safety-minded features for resident use.
- Common areas that accommodate different activities by offering ample storage and easily convertible spaces.
- Circulation paths that link residents to activity areas, thereby decreasing the likelihood of elopement.
- Way-finding cues throughout the setting to re-orient residents toward designated safe areas.

- Hallways that distinguish private bedroom areas from common living spaces.
- Monitoring devices to enhance resident security, including boundary lasers, automatic window safety locks, and alarm systems for points of ingress/egress.
- Single-occupancy rooms, offering residents privacy and dignity.
- Use of durable materials and furniture that protect against falls, flammability, microbes and accidental impact.
- Direct access to secure outdoor spaces, including parks, raised flower and garden beds, and a small selection of shops or entertainment venues.

The memory care environment also requires certain emergency readiness provisions to appropriately safeguard residents against harms. Resident elopements and/or episodes of violence and aggression require written protocols that direct staff to mobilize quickly and act decisively. Implementing a code system to alert staff to missing and/or endangered residents helps to ensure appropriately trained responders are rapidly deployed. In addition, every Memory Care Community should have a basic plan outlining interventions for all stages of a safety-related crisis, including paramedic or medical personnel dispatch, resident stabilization, and swift investigation. Response protocols should further delineate documentation requirements and reporting responsibilities, including to administrative leaders, family members, health departments, and law enforcement agencies.

Insurance Considerations

The stakes are high for memory care communities and insurance considerations to protect against enterprise-wide losses cannot be overlooked. In addition to professional and general liability insurance for negligence-based exposures, memory care operators can further protect their organizations against other Memory Care-related risks such as construction, property, and environmental exposures. At Chubb, we offer our clients a comprehensive portfolio of tailored insurance products to manage those risks along with customized risk engineering services to help organizations anticipate and minimize costly exposures. With a comprehensive risk management strategy and appropriate insurance coverages, Memory Care organizations can better fulfill their primary mission and deliver the best care to their residents.

Memory Care Communities represent a promising model of aging care where individuals with Alzheimer's and related forms of dementia can achieve optimal functioning through structured daily routines, comprehensive behavioral management programming, and secure environments in which safety and quality of life are maximized. However, substandard operating procedures and ill-trained caregivers potentially jeopardize resident well-being, exposing Memory Care Communities to unwanted liabilities in the form of bodily harms, medical complications, and elopement. By focusing attention on a coordinated resident placement process, recruiting well-trained staff, complying with best practice standards, and obtaining comprehensive insurance coverage, memory care operators can help create safer environments and reduce the likelihood of litigation.

To help operators gauge compliance with a range of memory care-related practices and protocols, checklists are available at www.chubb.com or by clicking on the titles below.

Integrated Memory Care Communities:

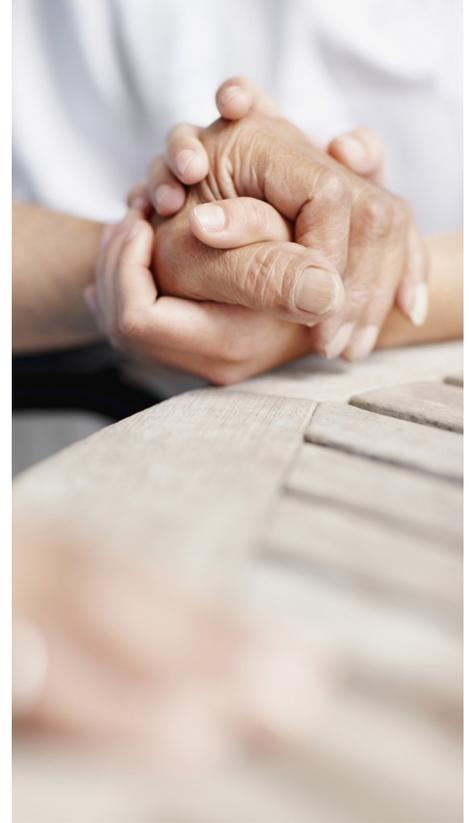
[Checklist of Essential Risk Management Features](#)

Stand-alone Memory Care Communities:

[Checklist of Essential Risk Management Features](#)



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Resources

Alzbrain.org, *Managing Behavioral Symptoms of Residents with Dementia in the Long-term Care Setting*, 2009. Available at <http://alzbrain.org/pdf/hand-outs/2009.%20behavior%20book.pdf>.

Alzheimer's Association, *Behavioral Symptoms*, 2016 website copyright. Available at www.alz.org/professionals_and_researchers_behavioral_symptoms_pr.asp.

Alzheimer's Association, *Creating a Daily Plan*, 2016 website copyright. Available at <https://www.alz.org/care/dementia-creating-a-plan.asp>.

Alzheimer's Association, *Guidelines and Recommendations for the Detection and Treatment of Dementia*, 2016 website copyright. Available at http://www.alz.org/professionals_and_researchers_14899.asp.

Chronic Care Networks for Alzheimer's Disease, *Tools for Early Identification, Assessment, and Treatment for People with Alzheimer's Disease and Dementia*, revised 2003. Available at http://www.alz.org/national/documents/brochure_toolsfordassesstreat.pdf.

Healthcare Association of New York State, *Elopement Resource Manual*, May 2005. Available at <http://www.elopement.org/index.html>.

LeadingAge, *The LeadingAge Ziegler 150 Report*, 2014. Available at http://www.leadingage.org/uploadedFiles/Content/Members/Member_Services/LZ_100/LZ150-2014.pdf.

National Institute on Aging, Alzheimer's Disease Education and Referral Center. Available at <https://www.nia.nih.gov/alzheimers>.

Olinger, M. "Making a Difference: Resident-Focused Models for Memory Care Facilities." *Journal of Interior Design*, 2012, Volume 37:3, pp. v-xii. Available at http://bakerbarrios.com/wp-content/uploads/2015/05/Olinger_Memory-Care-Design_White-Paper.pdf.

Soreff, S. et al. "Understanding and Dealing with Resident Aggression: Techniques for Managing a Delicate Situation." *Long-term Living*, March 1, 2004. Available at <http://www.ltlmagazine.com/article/understanding-and-dealing-resident-aggression>.

Stevenson, S. "The 7 Things You Need to Know About Memory Care." Posted on *Senior Living* online blog, November 4, 2013. Available at <http://www.aplaceformom.com/blog/2013-11-4-memory-care/>.

U.S. Department of Health and Human Services, *National Alzheimer's Project Act*. Available at <https://aspe.hhs.gov/national-alzheimers-project-act>.

Disclaimer:

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Figure 1
Key Benefits of Stand-alone versus Integrated Settings

Stand-Alone Memory Care Communities	Integrated Memory Care Communities
<ul style="list-style-type: none">• Offers dedicated spaces uniquely designed for memory care residents.• Accepts a memory impaired resident into a highly specialized residential setting.• Permits residents to age-in-place.• Grants access to a full array of amenities, e.g., kitchen, exercise room, and therapeutic settings.• Places residents in household units to encourage familiarity and promote a family-like atmosphere.	<ul style="list-style-type: none">• Enhances social interaction through spaces shared with other assisted living residents.• Offers a non-impaired spouse/partner of a memory care resident the opportunity to live on the same campus in another form of retirement living.• Facilitates an easy transfer of residents to a higher level of skilled care when required.• Provides access to a residential campus with a potentially greater range of amenity offerings.• Offers smaller, self-contained units that safeguard residents against harms stemming from broader access to kitchen spaces and other higher-risk recreational areas.

Endnotes:

ⁱ Alzheimer’s Association, “Changing the Trajectory of Alzheimer’s Disease: How a Treatment by 2025 Saves Lives and Dollars,” 2015. Available at http://www.alz.org/documents_custom/trajectory.pdf.

ⁱⁱ Gerace, A. “The Memory Care Opportunity.” ALFA Update, 2012. Available at <http://www.alfa.org/News/2306/The-Memory-Care-Opportunity>.

ⁱⁱⁱ Lancaster Pollard, 2015 Seniors Housing and Care Survey. February 3, 2016. Posted on *Senior Living*. Available at <http://www.lancasterpollard.com/newsDetail/tci-sl-2015-seniors-housing-survey?cldee=bG9pcy5ib3dldnNAbWNrbmlnaHR-zLmNvbQ%3d%3d&urlid=2>.

^{iv} A state-by-state list of memory care costs, which average \$2,000 more a month than assisted living settings, is available through SeniorHomes.com at <http://www.seniorhomes.com/p/alzheimers-care-costs/>.

^v The Alzheimer’s Association is not responsible for information or advice provided by others, including information on websites that link to Association sites and on third party sites to which the Association links. Please direct any questions to weblink@alz.org.

^{vi} Chmielewski, E. “Excellence in Design: Optimal Living Space for People With Alzheimer’s Disease and Related Dementias.” EDAC, Perkins Eastman June 2014. Available at http://www.alzfdn.org/documents/ExcellenceinDesign_Report.pdf.



Contact Us

Caroline Clouser
Executive Vice President
917.921.2939
caroline.clouser@chubb.com

Diane Doherty
Vice President
212.703.7120
diane.doherty@chubb.com

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