

# China Senior Care Industry Insights

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## Topics

- n Aging population and business opportunities
  - n Viable business models and examples
  - n Regulatory environment for foreign investors
  - n Introduction of Co-effort Law Firm and legal service
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## Part 1

### Aging population and business opportunities

#### Status of aging

I. The Chinese population is aging and the trend is accelerating.

By the end of 2011, senior citizens above 60 years old have reached 185 million, presents 13.7% of the whole population.

The number of senior citizens has exceeded that of the whole Europe.

II. Aging issues are different among cities, western regions are relatively low while eastern region's population grows faster. Big cities like Shanghai and Beijing are aging very quickly.

#### Chinese characteristics

(a) Gap between supply and demand brings about huge business opportunities.

According to national plan, additional 3.4 million nursing beds for seniors will be constructed by 2015. In Shanghai, 631 senior care facilities (statistics from end of 2011) nursing beds cover only 3% of the city's elderly people.

(b) Qualified nursing staff in scarcity. 11 million in demand vs. 300,000 in the

marketplace (only 100,000 are qualified nurses).

Professional level is quite low compared to developed countries.

(c) "421" family structure

(d) Chinese tradition of "Filial piety" in challenge

#### State and local policies are encouraging private investors

12th Five-year Plan on the Development of Chinese senior care (中国老龄事业发展“十二五”规划)

Implementation Opinions on Encouraging and Guiding Private Capital to Invest in the Senior Living Service Industry (民政部关于鼓励和引导民间资本进入养老服务领域的实施意见)

I. "9073" goal—90% of seniors aging-in-place, 7% using community service and 3% live in facilities

II. Encourage private investment by all means to participate in the industry

III. Further introduce and implement preference policies on land use, taxations, infrastructure cost and financial subsidies

IV. Shanghai encourages foreign investment in senior care facility—pilot scheme on business registration and licensing

## Part 2

### Viable business models and examples

#### **Model I** Real estate development

- Including Independent Living Communities, Assisted Living Facilities, Nursing Homes and Continuing Care Retirement Communities
- Investors follow this model are mainly domestic developers and insurance companies
- Pricing model is flexible

#### **Model II** Nursing Home Enterprises

- Can be JV or WOFE
- Difference between profitable and non-profitable institutions in establishment procedures and preference
- Preferred investment model for experienced foreign operators
- Facilities are usually leased from landlord and remodel is needed

#### **Model III** Management and Consulting Enterprises

- Consulting on operation or staff training, can be JV or WOFE
- Little investment at the beginning and less risky
- Many real estate developers, insurance companies and local government in need
- Private investors can take part in operating public care facilities

#### **Model IV** In-home care service provider, including business franchising

- According to Civil Affairs Bureau, the coverage of in-home care service network in big cities is below 20%, nearly zero in rural areas
- Meet the demand of 90% Chinese seniors
- China's franchising legislation and regulatory environment matures

#### **Model V** Investment from insurance companies

- By means of equity investment, financing structure and property purchasing
- A spectacular amount of investment to the industry
- Mostly aiming at CCRCs model

#### **Model VI** Through PE Fund Investment

- Strategic investment in mature projects or enterprises
- Profitable ability is to be tested and exit solutions applicable are still limited
- When REITs legislation in china is clear, a huge amount of fund investment in this sector will be seen

**Model...** Related industries, such as occupational education, medical care devices and architecture design

## Part 3

### Regulatory environment for foreign investors

Current legal environment for foreign investors, basically in three areas:

#### **Real estate and construction**

- Land use right and real estate development
  - No specific category of land use right for nursing home
  - Many existing buildings for various purposes are expected to be used for senior care facility
- Construction regulation for senior housing
  - (a) National regulation on senior housing mostly from Civil Affairs Bureau
  - (b) Local regulations to be aware of
  - (c) Industrial and inter-company standards

#### **Foreign investment law**

- Foreign Investment Industrial Guidance Catalogue (2011 Catalogue) on market entry:
  - Occupational skills training and home service in encouraging category
  - Foreign-invested medical institutions in permitted category

- Regulation from Civil Affairs Bureau and local government on foreign investment in nursing home
- Foreign investment in real estate:  
Restriction from MOFCOM  
Follow the principle of business existence and project-based company for foreign investors

### **Industrial regulation from relevant government authorities**

- Municipal Civil Affairs Bureau is the approval and administrative authority for private-invested senior care facilities
- Other approvals from different authorities are required, such as MoH, Land Planning, Pricing, Tax, Police Bureau...
- Licensing requirement for nursing home are different between for-profit and not-for-profit business
- Requirements for medical treatment in facilities
- Standards on caregiver qualification, levels of care service

### **Future trend on legislation to be noticed**

- Details on preferential policy, such as land, tax, subsidiaries to be clarified
- Regulations on for-profit licensing in more details;
- Welfare policy for elderly and insurance
- Standards for professionals and senior care providers
- Regulations affecting business models on senior housing

## **Part 4**

### **Introduction of Co-effort Law Firm and legal service**

#### **Main practice areas**

- Foreign investment and trade
- M&A and finance
- Construction and real estate
- Intellectual property

- Dispute resolution

### **Service for senior care industry**

- Advice on foreign investment regulatory environment in senior living industry
- Advice on business models and legal feasibility on senior living project
- Conduct legal due diligence on project acquisition
- Business incorporation and licensing and negotiate with joint venture partner
- Draft and standardize documents on (i) construction, operation and business transaction; (ii) third-party agreements and vendor's contracts; (iii) policies and procedure for residency
- Advice on finance, tax and government relation
- Deal with issues on intellectual property, licensing, general liabilities and employment.

**Michael Qu is a PRC lawyer of Co-effort Law Office, an international full legal service provider employs around two hundred lawyers and professionals that offer unique insight and experience to companies and investors in high-growth sectors. Michael has extensive experience for over 10 years in foreign investment, real estate, private equity investment, as well as in corporate compliance management. During his private practice, Michael has successfully represented investors in the real estate, senior care, assets management, retail and leisure sectors in dealing with commercial transactions and disputes.**

**Active in the senior care industry, Michael is also publisher of Newsletter on China Senior Housing and Care, a legal publication to provide an industrial insight on the development of China senior housing and care and to help investors doing business in China. Being a legal professional that has witnessed and studied the mergence of senior care industry for years, Michael is now focusing primarily on assisting private investment in the field, providing counsel regarding company and capital formation, project development and acquisitions, regulatory issues on operation, corporate finance, etc.**

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