

China Regulates Administrative Measures on Senior Care Facilities

By Michael Qu Qin

On last December 28th, the revision of the Law on Protection of Senior Citizens' Rights and Interests (the "New Law") was promulgated. It will be implemented as of July 1st, 2013. While many paying more attention to the clauses with related to the obligation that children should pay frequent visit to their parents, we would like to focus much on the administration and supervise of senior care facilities that illustrated in the New Law.

The New Law stipulates that establishment of senior care facility shall acquire prior approval from the Civil Affairs Bureau above the county-level government, and upon such approval, a senior care facility shall be registered with competent authority. Local Civil Affairs Bureau is in charge of the guidance, supervision and administration of senior care facilities, and other governmental authorities take relevant supervision role to senior care facilities. Meanwhile, among other requirements for establishment of senior care facilities that provide accommodation and care service to the elderly, an institution name and residence, article of association and capital, qualified staffs for management, technique and service, places and equipment for living and activities are on the list of must haves.

The New Law, in addition, stipulates that government from every local level should regulate the service fee policy in order to discipline the charging activities and standards. In the event any senior care facility is shut down, the governmental authority shall be responsible to arrange the placement of the seniors and provide support. Although many issues yet to be further clarified from the country level, for example, there is no different treatment on administration and regulation for for-profit and not-for-profit senior care facility, the content in the New Law is positive in that the government has realized the importance of regulating the areas of licensing, fee charging and service standardizing in addition to the encouragement of private capital into this industry.

What worth expecting is the Ministry of Civil Affairs is in the process of drafting the Measures for Establishing and Licensing of Senior Care Institutions in order to strengthen the administration of market entrance, facility operation, management and service, among others. The Measure is also expected to be published and implemented before this July 1st. Meanwhile, the Ministry of Civil Affairs has required local governmental authorities to stipulate and enforce a series of standards of service accreditation, construction and fitting, personnel, categorized management and safety and hygiene, and to establish appraisal system for seniors' residence and service demand (initiatives are found in Beijing). We believe these regulations will reduce the illegal operation of senior care facilities, especially in rural areas. Next, we will put more focus on the revision of practical measures on administration of senior care facilities from the local level. ■

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Having represented international companies in their investment in the Chinese market, our clients can benefit from our deep industry knowledge and experience, and from our creative, solution-oriented and responsive approach. Especially we can assist senior care investors and developers with the following issues:

- Advice on structuring business models
- 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.