The Legislation Evolvement of China's Elderly Care Industry

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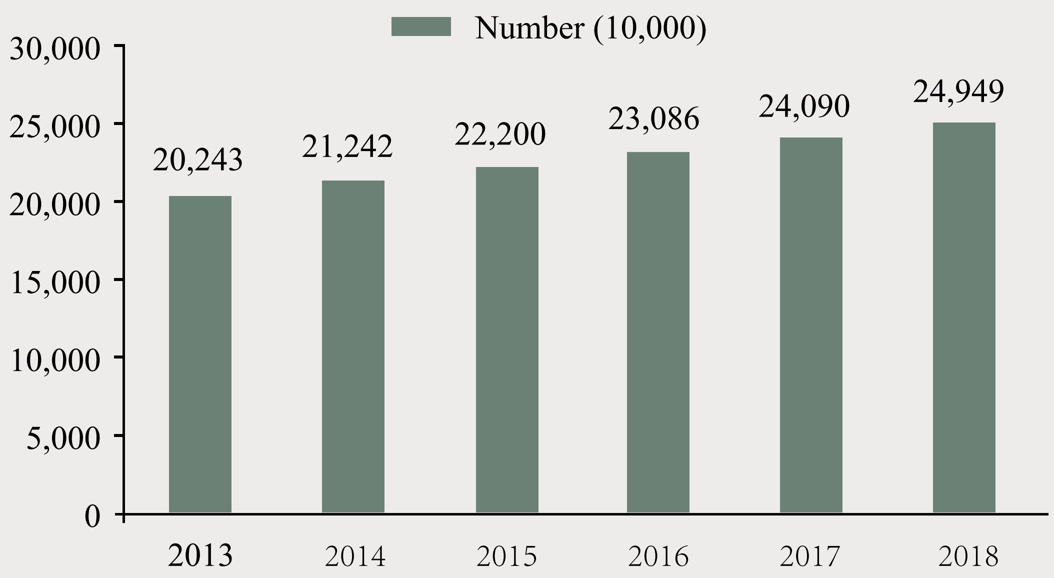
Year 2013 is always referred to as the "beginning of an era" when China's elderly care industry started to boom. A milestone policy from the State Council concerning the accelerated development of the senior care service industry (Circular No. 35) outlined a roadmap for elderly care industry and its legislation development. At that time, the newly revised Law on the Protection of the Rights and Interests of the Elderly, the Measures for the Permits for Establishment of Senior Care Institutions, the Measures for the Administration of Senior Care Institutions, and the Guiding Opinions on Land Use for Aged Service Facilities, among others, were introduced subsequently, witnessed a period of rapid development of the industry, during which a series of wordings relating to guidance and encouragement policies were frequently heard, such as "integration of medical care and senior care", "public established/public constructed, private operated", "internet + elderly care", etc., which draws on the industry with Chinese characteristics. Funds from various spaces have been put into the construction of senior care facilities. Real estate developers and insurance companies were particularly enthusiastic about the CCRCs ("Continuing Care Retirement Communities") model migrated from the U.S., which however, had drawn a lot of concern over local adaptation given the lack of corresponding policy support on financing, pricing, as well as reimbursement system.

The government, on the other hand, had paid more attention to the increment of senior care institutions, and policies were implemented with the aim to realize construction goals of facilities in each locality as planned. According to the data from the Ministry of Civil Affairs as of the end of 2018, there are nearly 30,000 senior care institutions over the country, accounting for 7.464 million senior care service beds (including 3.928 million beds from senior care institutions and 3.536 million from community centers)—the strategic goal of 30 elderly care beds per every thousand seniors has been successfully achieved, calculated by the 290 million population over 60 years old by the end of 2018. Operational capacity for many senior care institutions, however, lags heavily behind the rapid construction. High vacancy rate, low quality of service and shortage of talent are among the most worried aspects. In March 2017, six Ministries of the State Council jointly launched a four-year national campaign to improve the quality of elderly care, in order to address and regulate various problems in the operation of the senior care institutions by means of as many as 115 indicators, with a view to paving the way for national compulsory standards to be introduced in the near future.

China's population aged 60 and beyond from Y2013 to Y2018



Data source: NBS

At the beginning of 2019, the State Council has substantially changed the licensure procedure for the establishment of senior care institutions to the filing system, canceled the pre-entry threshold, which calls for a higher level of capability of the government in the post-event supervision of the industry. In 2019, another state policy called “urban-enterprise linkage and universal welfare” was spread out, which also embodies the Chinese characteristics: a collaboration between city government and enterprises where city governments provide a package of policy support in terms of e.g. land, planning, financing, taxation, medical care integration and talents; while enterprises provide inclusive elderly care service packages according to the agreement, offering affordable and convenient universal health care services for the general elderly. This move is expected to better match the construction goals with the needs of the general public, and the beneficiaries will be far wider than those targeted by traditional PPP (Public Private Partnership) senior care projects.

An inevitable downside of the rapid industrial evolution is the frequent amendment of legislations. It is clearly remembered that in February 2011, the Ministry of Civil Affairs issued the 12th Five-Year Plan for Social Elderly Care Service System Construction, proposing the “9073” strategic formula, which then marched the far-reaching deployment of institutional, communities and home-based care facilities. It may take time, though, to tell whether such a strategy is appropriate, recent legislation is seen downplaying it. The "9073" policy is expected to step down from its historical mission. In the Opinions on Promoting the Development of Senior Care Services ("Circular No. 5") issued recently by the General Office of the State Council, the goal of the development of the aged care service industry is reset as to "ensure that, by 2022, on the basis of basic care reachable for all, needs of diversified and multi-level care services are effectively met for the elderly". The legislation has evolved from “quantitative change” to “quality change”. A series of policies regarding, such as, deepening the administrative and supervisory reform, expanding investment and financing channels, promoting employment and entrepreneurship, incentivizing consumption and improving service quality will be introduced intensively. We are embracing another wave of legislations in the aged care service industry.

For the operators in industry, on the one hand, business environment is gradually improved through the evolvement of legislation; on the other hand, market competition has never been less fierce—opportunities emerge from a signal business model, a small team, or an overseas brand are getting smaller; government looks heavily on comprehensive and enduring

Over the decades, elderly care operators have been existing in the form of private non-profit social organization given that elderly care services are historically regarded as a social welfare undertaking. It is until 2013 that a series of legislations expressly allow for investment in for-profit elderly care business that has officially opened the door to foreign investors. Another important reason is that the government usually provides more preferential policies for non-profit senior care institutions in terms of taxation, subsidies, etc. Moreover, many local governments execute discriminated treatment against for-profit service providers in their participation in government procurement or government bidding projects. Although Circular No. 5 has clearly required a clean-up and abolishment of practices that hinder unified markets and fair competition, and clarified the rules that allow foreign investors to set up private non-profit elderly care service organization, the unfair market environment caused by historical evolution might still remain for quite a long time.

Investors are inclined to follow the policy direction so to rightly seize the opportunity of long-term development. In the senior care industry, some legislative trends are noteworthy: the guiding policies at the national level are often more general, but they can be very practical after being implemented in terms of local legislation (such as the management measures for senior care institutions, the land use measures for senior care facilities, reform of public institutions, etc.); new policies are often introduced as pilot schemes in localities, and then gradually implemented nationwide (such as the house-for-pension scheme, long-term care insurance, Internet + nursing, etc.); some policies are initiated in first-tier cities such as Beijing, Shanghai or Guangzhou, and followed by some other provinces and cities after lessons and experience are learned (such as assessment criteria in senior care facility, various subsidy subsidies, facility construction standards, etc.). Sometimes, local policies seem similar, but they will have different focuses in many aspects—for example, nuances may be found in the documentations of “13th Five-Year” Elderly Care Plan promulgated during 2016 by different local governments.

With that in mind—reading through the latest and most representative legislation of the industry to find out most relevant insights and trend—we can't help paying more attention to a newly issued policy by the Shanghai Municipal Government, the Implementation Plan for Deepening the Elderly Care Service (2019-2022) ("Implementation Plan"). Released in the context of Circular No. 5, the Implementation Plan will not only impact the legislations in the Yangtze River Delta region, but also more likely to demonstrate itself as a national model of constructing urban elderly care service system in super mega cities.

It innovatively sets out the goal of “three incremental”, literally, “increase of quantity”, “improvement of capability” and “enhancement of efficiency”. Given the land intensity but strong desire of the elderly to age in place, the plan advocates the “Community Embedded Aged Care Service Facilities” as a preferred option with the aim to promoting integrated care services, developing informal care services, as well as executing an elderly care counseling systems. According to the Implementation Plan, the so-called “Community Embedded Aged Care Service Facilities” less focuses on the “embedding” of senior care facilities in the brick-and-mortar way but puts more emphasizes on the “embedding” of senior care function within a “15-minute” reach in downtown areas. The concept of "integrated care service model" is set to be constructed based on such “Community Embedded Aged Care Service Facilities”, which is supposed to connect institutional elderly care and home-based care with various types of aged care services available, so as to improve operational capacity and efficiency.

Shanghai has, to a certain extent, drawn on the practices of the most aging countries, such as Japan, which is somehow deviated from the abovementioned CCRCs model but quite akin to the “NORC (Naturally Occurring Retirement Community)” concept being proposed in the United States in recent years. Moreover, the Implementation Plan sets up a legislation pipeline for industrial specification and standard with respect to the dementia care, Smart and Tele-Care, comprehensive evaluation mechanism of service quality and standardization construction of elderly care Service, etc. This is set to have fundamental impact on the development of other cities by virtue of the enhanced collaboration within the cities in Yangtze River Delta.

In sum, the legislation of the senior care industry has seen substantial evolution every 4 to 5 years since 2011. With the development of the market itself and upgrading of consumer demand, policy has been constantly adjusting its direction. In the new era, strengthening the government's post-event supervision, further encouraging and guiding investment from private capital, and providing convenient and accessible elderly services for the majority will become the main theme of the market.

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