



CHILD CARE CENTRES ASSOCIATION OF VICTORIA INC.

Submission

by the CCCAV on

“RIS on amendments to Regulations – Anaphylaxis and Criminal History Checks”

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By Email: Belinda.Sims@dhs.vic.gov.au

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By e-mail Belinda.Sims@dhs.vic.gov.au

Re: RIS on amendments to Regulations – Anaphylaxis and Criminal History Checks.

Dear Ms Sims

Child Care Centres Association of Victoria is pleased to offer these comments on the Regulatory Impact Statement dealing with the proposed anaphylaxis management changes to the Children's Services Regulations.

On behalf of our members, their staff, and the many thousands of families served in our member centres, we appreciate the opportunity to contribute to this important regulation design matter.

The design and implementation of these changes is to be further considered as part of the forthcoming Regulation Review, and as part of a formal evaluation. We believe each of those two steps is likely to be important - to deal with the various practical uncertainties that we suggest will emerge.

General Comment

We offer the following general comments and then comment on specific matters.

CCCAV continues to support the Victorian government's moves to:

- Minimise the risk of a serious anaphylaxis incident
- Strengthen the protection for children diagnosed at risk of anaphylaxis
- Increase the confidence of parents and staff in children's services where a child diagnosed at risk of anaphylaxis is being cared for
- Enable children diagnosed at risk of anaphylaxis to more fully participate in the range of early learning and child-development programs offered in member's long day care centres

The potential severity and the apparently increasing incidence of extreme allergic anaphylactic reactions makes it reasonable for existing Regulations to be strengthened as proposed in the Regulatory Impact Statement.

Despite that general support, there is uncertainty about whether the proposed regulatory changes are the most efficient way to manage the apparently increasing risk. We note that the Regulatory Impact Statement, at page 34, itself recognises that continuing current policy and practice (which is, in effect, an approach to raise awareness of anaphylaxis, provide training and education in risk minimisation and administration of medications, together with regulatory attention) is a feasible alternative to the regulatory amendment.

This uncertainty is one reason why we emphasise the importance of proper evaluation of the changes. The Regulatory Impact Statement acknowledges that Victoria's Competition and Efficiency Commission Guidelines say that it is good practice and desirable to include details of how the proposed measures will be evaluated, to ensure the objectives of the Government are being met.

Preliminary key performance indicators are to include:

- Reduced number of anaphylactic episodes in early childhood services, measured through the number of notifications to the Department by services of serious incidents requiring medical attention.
- Decreased number of hospital admissions and therefore a reduction in the costs associated with anaphylaxis treatment measured through hospital data.
- Increased numbers of staff who have undertaken accredited training, measured through attendance figures for training over the next 12 months.

The first of these performance indicators implies that anaphylactic episodes in early learning and care centres are already being notified under existing Regulations.

CCCAV would appreciate it if we could be provided with this baseline data. Can you please treat this submission as our request for such data to be supplied to us?

Training issues – cost and availability

Members are generally supportive of the proposals. Their most often-expressed concern deals with ensuring reasonable cost, availability, and accessibility of appropriate training courses for staff, and with the suitability, cost, and availability of the EpiPen[®].

CCCAV remains unsure about some of the basic details in relation to these various matters. Successful implementation of the proposals will depend on ensuring that appropriate training is readily available, easily accessible, and cost-effective.

In particular, the proposed regulation requiring *all* staff members to be trained *every 12 months* in how to use the EpiPen[®] may prove to be onerous in practice. Could you please provide us with information to explain to members why it is that this training has to be provided *every 12 months*?

Perhaps training could be incorporated into existing asthma or first aid training every three years?

Some members have asked about the scope of the proposed training. At the moment, it is possible that some non-contact staff (for example, the cooking staff in some centres)

may not be required to do any of the training. It would be an odd result if cooking staff were not somehow exposed to training with respect to managing the relevant risks in this area. On the other hand, perhaps the existing food safety regulatory requirements are sufficient to cover this aspect.

Another training issue deals with timing. It does not seem to have been made clear how long centres will have to complete the training without being in breach. It is not clear how much time a centre will have to comply with having appropriate staff complete the training and not to be in breach once a new 'at risk' child commences.

The same question arises when there has been a change in staff – what time will be acceptable before a new staff member must have completed the EpiPen[®] course?

A further question arises as to the transferability of the qualification. We assume that the training will attach to the person and will be able to be carried with that person from one centre to another. If this is not the case then we suggest further consideration be given to the matter.

Further discussions on some of these practical aspects may be warranted.

Potential conflict with other legal obligations.

CCCAV supports the policy objective of enabling children diagnosed at risk to more fully participate in the early child learning and development programs offered in member centres.

It needs to be recognised, however, that children diagnosed as being at risk of severe reaction to common allergens have to be considered for entry in relation to the centre's obligations to meet the safety and well-being requirements of all children in the centre.

There have been occasions in other States where, to ensure that centres continue to meet their 'duty of care' obligations to all children, centres have been unable to accept 'high-risk' children into the particular centre. The judgment has been that it is simply not reasonably possible to ensure that high-risk children will not be exposed to contact with other young children who themselves may have had some exposure to the particular common trigger, such as nuts or eggs.

CCCAV is not suggesting that these difficulties should prevent introduction of the proposals. But neither should we ignore these realities. The RIS has not attempted to grapple with them. We suggest these practical difficulties will emerge.

Accordingly, there is a risk of impact on insurance costs, and costs in general. There is also potential for conflict when the overall policy objective of maximising access bumps into the practical realities.

Perhaps these issues can be left to the Regulation Review, or to the evaluation. We would also understand, however, if a decision was made to explore this potential conflict more fully at this stage of the design process. It would be helpful to have protocols in place as soon as possible.

Matters to be recorded in enrolment records

It is proposed that regulations will require that “if the child is diagnosed as at risk of anaphylaxis, the current anaphylaxis medical management plan for the child” is to be included in enrolment records.

CCCAV supports this notion in principle. We are nevertheless concerned about the practicalities of obtaining, or assessing, the ‘adequacy’ of the relevant medical management plan. We know from experience that some of these so-called medical management plans can be very basic – sometimes simply an instruction sheet for administering the EpiPen[®] and signed by the doctor. We would like to explore this further, but assume it is a matter that can be explored as we go along.

Information to be available

It is proposed that “the proprietor must provide to each parent or guardian of the child diagnosed as at risk of anaphylaxis enrolled at the service a copy of the service’s anaphylaxis management policy”.

We assume this instruction requires that it is each *family* that is to receive a copy of the policy rather than each parent.

If it is the intention to provide each parent with a copy of the policy, we would say that it would usually be sufficient to provide a copy to one parent, not both.

If our understanding is correct, we suggest that this matter be clarified in the proposal.

Removal of child by staff member

It is proposed that if any child is to be taken away from the premises, the staff accompanying the child must carry a “basic first-aid kit”.

We believe it would be prudent for guidance to be provided, in the Regulations, for what constitutes a ‘basic’ kit.

Perhaps this guidance could include the requirement that the basic kit will contain an insulated container, for example, an insulated lunch pack, containing a current EpiPen[®]. If prescribed, the relevant antihistamine should also be included, together with the relevant contact details for parents and/or doctors.

Communication plan

The communication plan must include practices and procedures to ensure that all staff members, including staff acting in a voluntary or honorary capacity, are informed about and familiar with the anaphylaxis medical management plan and risk minimisation plan of each child diagnosed as at risk.

We have not had time to seek advice on the insurance-cover ramifications for voluntary or honorary staff taking on these liabilities. We suggest it would be prudent for this to be done as part of the design-stage.

Privacy Concern

CCCAV understands the reasons for having a notice at the entrance of the centre advising everybody that a child diagnosed as at risk attends the centre. We assume that such notice will not identify the child. It seems to us that it would be enough for other parents simply to know that an 'at risk' child attends, without necessarily knowing who that child is.

Criminal History Checks

CCCAV supports the Government's initiatives in this area, including the proposed elimination of the dual requirement for members of staff to have both a Criminal History Check and a Working with Children Check.

Concluding remarks

Thank you again for the opportunity to provide these comments. CCCAV supports the Government's initiatives and looks forward to working with all other stakeholders to ensure a smooth implementation.

We anticipate there will be a number of implementation difficulties that will need to be carefully monitored and then considered as part of the forthcoming regulation review and formal evaluation.

Yours faithfully

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Frank J. Cusmano
CEO
Child Care Centres Association of Victoria Inc.
9532 2017