In Confidence

Office of the Minister for Children

Cabinet Social Outcomes Committee

Regulatory changes to healthcare provisions in Oranga Tamariki residences

Proposal

1 This paper seeks Cabinet's agreement to draft amendments to the Oranga Tamariki (Residential Care) Regulations 1996 (the Regulations). The proposed amendments are intended to improve access to necessary medications and Nurse Practitioners for children and young people in Oranga Tamariki Care and Protection and Youth Justice residences[1] (residences).

Relation to government priorities

2 These regulatory changes contribute to the Government's priority to deliver public services that are more efficient, effective and responsive to those who need and use them. They are particularly important to ensure the safety and wellbeing of children and young people in residences.

Executive Summary

3 The Regulations establish the standard of care that Oranga Tamariki must provide to all children and young people in residences.

4 The Regulations do not currently provide children and young people living in a residence with full access to health services, creating risks for their health and wellbeing. This is because access to emergency injectable medications such as EpiPens and glucagon pen kits[2] is limited by the Regulations.

5 In addition, the Regulations do not cater for medical advancements and changes to New Zealand's health system. When the Regulations came into force on 1 February 1997, they were outdated within days. This is because EpiPens were approved for use in New Zealand later the same week. The following year, MedSafe approved glucagon pen kits, and in 2001, Nurse Practitioners were formally integrated into the healthcare system. These changes were not anticipated or accommodated by the original Regulations.

6 As a result, there are critical gaps which restrict access to emergency injectable medication and fail to ensure that children and young people in residences receive the full spectrum of healthcare services available to their peers in the community.

[1] Care and Protection residences and Youth Justice residences refer to those established under section 364 of the Oranga Tamariki Act 1989. Under this section, residences are established for the "care and control" of children and young people who are in the custody of the chief executive.

[2] An EpiPen auto-injects adrenaline for the emergency treatment of anaphylaxis (severe allergic reaction) and glucagon pen kits provide emergency treatment for severe hypoglycaemic reactions.

7 To address these issues, I am seeking Cabinet's agreement to amend the Regulations so that:

7.1 trained and authorised staff in residences can administer specified emergency injectable medications;

7.2 EpiPens may be administered in residences without a prescription;

7.3 new emergency injectable medications in the future can be approved for use in residences at chief executive level on the advice of clinical experts rather than requiring amendments to secondary legislation;

7.4 children and young people in residences have access to the services of Nurse Practitioners, while maintaining the right for children and young people to access a medical practitioner if they prefer; and

7.5 children and young people living in residences have access to prescribed medications from authorised prescribers under the Medicines Act 1981 (and not just from doctors, which is the current situation).

Background

8 Residences generally house children and young people aged 7 to 18 years old, who require additional protective care, are on remand or whose offending has been proven and who have been placed in a residence. As of October 2025, the total operational capacity of Youth Justice residences is 144 children and young people and 29 children and young people across Care and Protection residences under section 364.

9 Within these residences, Oranga Tamariki is responsible for providing healthcare services to children and young people. The Regulations govern the provision of healthcare services and require that:

9.1 prescription medication may only be given to a child or young person if it is prescribed to them by a doctor or dentist;

9.2 only a doctor or nurse or dentist may administer injections; and

9.3 medical examinations are given by a doctor within a week of a child or young person entering a residence.

10 Health records[3] showed that of the small number of children and young people in a residence diagnosed with a severe allergy and issued with an EpiPen, 15 percent had an incident requiring it to be used, usually as a one-off event.

First gap: Access to emergency injectable medication is limited by the Regulations

11 As noted above, the Regulations do not allow general residence staff to administer emergency injectable medication. Only a doctor or nurse may administer injectables. The Ministry of Health contracts weekday health services in residences. Outside of

[3] Data collated from the Medtech Evolution health records software as of August 2025.

these hours, there is no one onsite who can legally administer injectable medication. This creates a significant, possibly life-threatening, safety risk if a child or young person is experiencing a medical emergency.

12 Residence staff, Health New Zealand, and most recently in May 2025, the Children's Commissioner have all identified this issue. The risks (outlined in paragraph 14) are currently managed by employing full time nurses onsite if there is a known need for someone who can legally administer injectable medication, and using emergency services if a medical emergency arises. While the risks have not yet been realised in practice, they remain serious and should be proactively addressed to avoid loss of human life.

13 The Regulations also require any medication to be individually prescribed. In cases where a child or young person is experiencing a previously unknown allergy, they will not have an EpiPen prescribed. As a result, administering an EpiPen during a first-time anaphylactic reaction is illegal under the current framework.

14 These gaps present a range of risks including:

14.1 Lack of timely treatment which may result in adverse medical outcomes, potentially as severe as death. No deaths are linked to this gap to date, so it is a severe but rare risk.

14.2 s9(2)(h) [redacted]

14.3 Ongoing stress for children and young people, impacting how safe they feel in a residence and the trust they have in residence staff to support their wellbeing.

14.4 Workplace stress and s9(2)(h) [redacted]

Second gap: Regulations limit access to healthcare professionals in residences

15 Nurse Practitioners joined the New Zealand health system in 2001, four years after the Regulations came into force. Nurse Practitioners are lead healthcare providers with advanced education and clinical training. Within their area of competence, they make health assessments, order and interpret tests, diagnose conditions, decide treatment interventions, administer injections and prescribe medications. The Regulations have not been updated to allow healthcare examinations in residences to be undertaken by Nurse Practitioners.

16 Under the Regulations, prescription medication may only be given to a child or young person if it is prescribed to them by a doctor or dentist. This disadvantages children and young people in a residence who out in the community would otherwise, for example, be able to use medication prescribed by a Nurse Practitioner.

17 General Practitioner (GP) services in New Zealand are under pressure. Children and young people in residences have experienced some difficulty accessing timely appointments and prescriptions and access to GP services is an operational challenge in at least one residence. Using Nurse Practitioner services would improve timely access to in-person primary healthcare services.

I recommend allowing authorised residence staff to administer specific injectable medications to ensure access to support during a medical emergency

18 I propose that the Regulations be amended to:

18.1 allow staff authorised by the chief executive of Oranga Tamariki to administer authorised injectable medications in residences, beginning with EpiPens and glucagon pen kits;

18.2 allow EpiPens to be administered in residences without a prescription; and

18.3 authorise the chief executive, on the advice of clinical experts, to approve further emergency injectable medications for use in residences, should new medications be approved for use in New Zealand by MedSafe.

19 These regulatory and operational changes will:

19.1 ensure an authorised and trained residence staff member is available at any given time to administer emergency injectable medication;

19.2 provide cover for a child or young person who may be experiencing a severe allergy for the first time; and

19.3 future-proof the Regulations so they can remain aligned with modern healthcare practices without requiring regulatory amendment.

20 Officials considered approaches to providing emergency medication in youth justice and other secure facilities for children and young people in Australian states and territories and the United Kingdom. This proposal is consistent with practices overseas. Legislation and regulations commonly allow residence staff with appropriate training to administer emergency medication when specialist medical staff are not onsite and when the child or young person cannot self-administer.

The Regulations should also enable primary healthcare practitioners to prescribe medication

21 The Regulations should allow children and young people to access Nurse Practitioners when in a residence. Feedback from stakeholder consultation strongly supported access to Nurse Practitioners and advocated for children and young people having agency over which health professional they see, just as they would in the community.

22 I also consider it important to future-proof the Regulations and ensure other primary healthcare practitioners can prescribe medication as necessary, particularly as the health system evolves. This could include paramedics, optometrists and pharmacists.

23 I propose that the Regulations be amended to provide access to:

23.1 the services of Nurse Practitioners for health examinations, while maintaining the right for children and young people to access a GP if they prefer; and

23.2 any medication prescribed by authorised prescribers in the Medicines Act 1981, not just medication prescribed by medical practitioners.

Robust safeguards are required both operationally and in Regulations

24 The Royal Commission of Inquiry into Historical Abuse in State Care and Faith-based Institutions (the Royal Commission) identified the misuse of medicine or medical equipment for purposes other than treating illness as medical abuse. The Royal Commission noted that medical abuse occurred in most care settings (including social welfare settings). This means proper safeguarding of injectable medications is important to prevent any such abuse.

25 The Royal Commission also identified medical neglect, which they described as: "the failure to provide or allow for adequate medical care that could be needed." Children and young people should not suffer from abuse as an unintended consequence of these changes, or from reduced access to appropriate and timely medical treatment because it is administratively convenient to prevent abuse by preventing the treatment. Either scenario would breach their human rights.

26 I therefore propose that a comprehensive set of safeguards are embedded both within the Regulations and by officials in operational practice. These changes will provide 24/7 cover in residences from staff who are appropriately and regularly trained and include:

26.1 restricting the administration of injectable medications to authorised staff only who will be trained in the use of EpiPens as part of their first aid certification, and in how to administer glucagon kits as required;

26.2 authorised staff will be required to complete annual refresher training;

26.3 authorisation will be suspended if a complaint of abusive behaviour is made against a staff member, pending the outcome of any investigation. This reflects feedback from stakeholders that abusive behaviour should be addressed through rigorous personnel procedures rather than by limiting services for young people; and

26.4 any use of emergency injectable medications must be reported to:

26.4.1 the health services team within the residence, to ensure the child or young person's health records are updated; and

26.4.2 Health New Zealand and internal Oranga Tamariki governance bodies, to support oversight of risk and identify any emerging patterns of use over time.

27 There are also existing statutory requirements for Oranga Tamariki to proactively report 'critical or serious' incidents to the Ombudsman, which will capture any use of

emergency injectable medication. There is a general duty under the Oranga Tamariki Act 1989 to report any action or decision that significantly affects a child or young person to parents or carers wherever practicable. Use of an injectable would qualify for this notification requirement.

Implementation

28 Oranga Tamariki will lead the implementation of the operational changes required to support the implementation of the new Regulations and associated safeguards.

29 I have directed officials to begin training and planning to ensure these changes in residences are operationalised as soon as the Regulations come into force, which is scheduled to be in May 2026.

Cost-of-living Implications

30 These proposals do not have an impact on the cost of living.

Financial Implications

31 Implementing these changes would come at a relatively minor cost, involving additional training and administrative support which will be absorbed by Oranga Tamariki within existing budgets.

Legislative Implications

32 Introducing these proposals will require amendments to the Oranga Tamariki (Residential Care) Regulations 1996.

Impact Analysis

Regulatory Impact Statement

33 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts.

Climate Implications of Policy Assessment

34 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the threshold for significance is not met.

Population Implications

35 Māori children and young people are disproportionately represented within residences, making up approximately 70 percent of the population in residences. These proposals will strengthen access to timely, appropriate, and emergency healthcare, supported by a range of safeguards.

36 The proposed policy changes also benefit all children and young people in residences who, given current capacity, could number up to 173 (see paragraph 8). In particular,

they benefit disabled children and young people who can require increased medical support. At any given time across the residences, typically fewer than five children and young people are at risk of requiring emergency injectable medication, with 23 individuals recorded as receiving EpiPen prescriptions between 2010-2025. By expanding access to healthcare services and aligning the Regulations with contemporary clinical practice, the changes help future-proof the system and ensure it remains responsive to diverse and evolving health needs. Implementation and training approaches will be tailored to reflect and respond to the specific needs of disabled children and young people.

Human Rights

37 The proposals may engage rights under the New Zealand Bill of Rights Act 1990. In particular, administering emergency injectable medications may engage the right to refuse to undergo medical treatment, as it may not be possible to obtain consent in an emergency. I consider these proposals to be justified because equitable, timely and adequate access to healthcare services is fundamental to the "wellbeing and best interests" of these children and young people. Timely access to all healthcare services including emergency healthcare is also consistent with rights under the United Nations Convention on the Rights of the Child.

38 Should medical abuse occur in the context of emergency injectable medication, this may further engage the right not to be subjected to torture or cruel, degrading, or disproportionately severe treatment.[4] It is also likely to engage the right that everyone deprived of liberty (such as those in a youth justice residence) shall be treated with humanity and respect for the inherent dignity of the person.[5] I consider that the safeguards contained in the proposed Regulations will minimise the risk of potential breaches. In particular, the requirements for staff training, Chief Executive approval for authorisation, and the suspension of authorisation upon any allegation of abuse provide important protections.

Consultation

39 The following agencies have been consulted: Crown Law Office, Crown Response Unit for the Abuse in Care Inquiry, Department of Corrections, Health New Zealand – Te Whatu Ora, Ministry of Disabled People – Whaikaha, Ministry of Health, Ministry of Justice, Ministry for Pacific Peoples, Ministry for Regulation, Ministry of Social Development, New Zealand Police, and Te Puni Kōkiri. The Department of the Prime Minister and Cabinet was also informed.

40 In August and September 2025, officials undertook targeted consultation with the Oranga Tamariki Disability Advisory Group, Ministerial Advisory Board and residence worker representatives, care-experienced rangatahi, the Children's Commissioner, the Independent Children's Monitor, the Office of the Ombudsman and the Public Service Association. The National Union of Public Employees were also contacted.

[4] Section 9 of the New Zealand Bill of Rights Act 1990.
[5] Section 23(5) of the New Zealand Bill of Rights Act 1990.

Communications

41 My office will manage any communications relating to the proposed Regulations. I intend to issue a press release to announce these changes following Cabinet consideration.

Proactive Release

42 I intend to proactively release this Cabinet paper, consistent with the Official Information Act 1982, within 30 business days of decisions being confirmed by Cabinet.

Recommendations

The Minister for Children recommends that the Committee:

1 **agree** to amend the Oranga Tamariki (Residential Care) Regulations 1996 so that:

1.1 trained and authorised staff in residences can administer specified emergency injectable medications;

1.2 EpiPens may be administered in residences without a prescription;

1.3 new emergency injectable medications in the future can be approved for use in residences at chief executive level on the advice of clinical experts rather than requiring amendments to secondary legislation;

1.4 children and young people in residence have access to the services of Nurse Practitioners, while maintaining the right for children and young people to access a medical practitioner if they prefer; and

1.5 children and young people in residences have access to prescribed medications from authorised prescribers under the Medicines Act 1981 (and not just from doctors, which is the current situation);

2 **agree** to implement regulatory and operational safeguards that:

2.1 restrict the administration of injectable medications to authorised staff only who will be trained in the use of EpiPens as part of their first aid certification, and in glucagon kits as required;

2.2 ensure authorised staff are required to complete annual refresher training;

2.3 ensure authorisation is suspended if a complaint of abusive behaviour is made against a staff member, pending the outcome of any investigation; and

2.4 require any use of emergency injectable medications be reported to:

2.4.1 the health services team within the residence; and

2.4.2 Health New Zealand and internal Oranga Tamariki governance bodies;

3 **authorise** Oranga Tamariki to issue drafting instructions to the Parliamentary Counsel Office to draft amendments to the Regulations that give effect to the above policy decisions; and

4 **authorise** the Minister for Children, in consultation with the Minister of Health, to make any further policy decisions not inconsistent with the policy in this paper, on any issues that arise during the drafting process.

Authorised for lodgement.

Hon Karen Chhour

Minister for Children