

[REDACTED]  
Person with Management or Control  
Oorama Operations Pty Limited  
Trading as Kindy Patch Bonython

Email: [REDACTED]

Dear Mr [REDACTED]

**Decision to issue Administrative Letter RE NOT-40458866**

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently conducted an assessment of a Notification of Incident (NOT-40458866) relating to the operation of Kindy Patch Bonython, SE-00009841 (the Service), operated by Oorama Operations Pty Limited, PR-40001489 (the Provider).
2. The Notification related to a child, [REDACTED] (aged three years and five months), whose medication was administered late on multiple occasions.
3. Web addresses to the *Education and Care Services National Law Act 2010*<sup>1</sup> (the Law) and the *Education and Care Services National Regulations 2011* (the Regulations) are provided for your convenience at the end of this letter.

**Facts**

4. On 28 July 2020, the Authority received NOT-40458866 (the Notification) from the Provider of a complaint from a parent that their child, [REDACTED] had been given prescribed medication at incorrect times on four occasions. Refer Notification and relevant documentation at [Attachment A](#).
5. Documentation provided with the Notification included a Medication Record, advising that Amoxicillin was required to be administered at 2:00pm on 17, 20, 21, 22 and 23 July 2020. The Medical Record noted that the medication was administered:
  - a. At 2:26pm on 17 July 2020;
  - b. At 2:22pm on 20 July 2020;
  - c. At 4:10pm on 21 July 2020, over two hours late;
  - d. At 3:20pm on 22 July 2020, almost 90 minutes late;
  - e. At 3:15pm on 23 July 2020, 75 minutes late.
6. Furthermore, the Notification advised that the risk mitigation steps performed by the Provider included:
  - a. Conversations with Nominated Supervisor and each educator involved in administering or witnessing medication;

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<sup>1</sup> As adopted in the ACT via the *Education and Care Services National Law (ACT) Act 2011*.

- b. Medication policy was read and signed by each educator;
- c. Formal meeting to be conducted with lead educator on 28 July 2020;
- d. Staff are to communicate with each other in the rooms and with any staff coming into the room regarding times any medication is to be administered.

### Law

7. The facts as outlined in the Notification support contravention of the following:

#### **Section 167(1) of the *Law* - Offence relating to protection of children from harm and hazards**

The Approved Provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual  
\$50 000, in any other case.

### Decision

8. The Authority has considered all the information supplied by the Provider and is satisfied that the late administration of prescribed medication on five successive occasions, with a delay of up to 2 hours 10 minutes, was a failure to ensure that every reasonable precaution was taken to protect the child from harm and hazard likely to cause injury or illness, in contravention of section 167(1) of the *Law*.
9. However, in mitigation, the Authority notes that steps were being taken to address the delays in administration of medication. The Provider appears to have managed the incidents appropriately and addressed failures by educators, meeting the expectation of the Authority.
10. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children. In this circumstance, the Authority has determined not to initiate statutory action but instead to issue this Administrative Letter.
11. The Authority requests that, within 14 days of receipt of this Letter, the Provider submit evidence to demonstrate that all steps outlined in the Notification (see paragraph 6 above) have been taken.
12. Evidence can be submitted in writing to Authorised Officer Tanya Masterman via email at [Tanya.Masterman@act.gov.au](mailto:Tanya.Masterman@act.gov.au), or alternatively via post to:

Children's Education and Care Assurance  
Attention Tanya Masterman  
GPO Box 158  
Canberra ACT 2601.

**Legislation**

13. The *Law* applies to you as a provider and any service you operate. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011*  
<http://www.legislation.act.gov.au/a/2011-42/default.asp>.
14. The *Law* and *Regulations* can be viewed at: <http://www.acecqa.gov.au/national-law>, and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
15. Should you have any questions about this Decision please contact Authorised Officer Tanya Masterman at [Tanya.Masterman@act.gov.au](mailto:Tanya.Masterman@act.gov.au).

Yours Sincerely,



Tanya Masterman  
A/g Assistant Director  
Early Childhood Policy and Regulation  
ACT Education Directorate

11 August 2020