

*** Consumer Federation of America * National Center for Health Research ***

November 27, 2023

Office of the Secretary
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814
Via: www.regulations.gov

**Comments of Consumer Federation of America and National Center for Health Research
to the U.S. Consumer Product Safety Commission on “Safety Standard for Nursing
Pillows,” Docket No. CPSC-2014-0005**

Consumer Federation of America (CFA)¹ and National Center for Health Research (NCHR)² submit the following comments to the U.S. Consumer Product Safety Commission (referred to hereafter as CPSC or Commission) in support of the above-referenced matter.³

I. Introduction

Section 104(b) of the Consumer Product Safety Improvement Act (CPSIA), part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to (1) examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, and (2) promulgate consumer product safety standards for durable infant and toddler products.⁴ No safety standard, whether voluntary or mandatory, currently exists for nursing pillows. Defining nursing pillows as products intended, marketed, or designed to position and support an infant close to a caregiver’s body while breastfeeding or bottle feeding, the Commission now proposes to issue a mandatory standard.⁵

¹ CFA is an association of more than 250 nonprofit consumer organizations established in 1968 to advance the consumer interest through research, advocacy, and education. See <https://consumerfed.org/>.

² NCHR is a nonprofit, nonpartisan think tank focused on research that can improve the health of adults and children. NCHR conducts, analyzes, and explains the latest research and works with patients, consumers, and opinion leaders to use that information to improve their own health and to develop better programs, policies, and services. See <https://www.center4research.org/>.

³ U.S. CPSC, Notice of Proposed Rulemaking “Safety Standard for Nursing Pillows,” Federal Register Vol. No. 88, Pages 65865-65887 (Sept. 26, 2023).

⁴ 15 U.S.C. 2056a(b)(1).

⁵ Staff Briefing Package: Staff’s Draft Proposed Rule for Nursing Pillows (Aug. 23, 2023) (Staff’s NPR Briefing Package), available at: <https://www.cpsc.gov/s3fs-public/Notice-of-Proposed-Rulemaking-Safety-Standard-for-Nursing-Pillows.pdf?VersionId=kq4qN.5uTjM6VuaN2015ky8bIKGYii3P>.

II. Many infant fatalities associated with nursing pillows involve infant sleep, and some nursing pillows designs seem specifically made to encourage infant lounging/sleep.

CPSC identified 154 infant fatalities from January 1, 2010, to December 31, 2022, involving infant pillows.⁶ 142, or 92%, of those fatalities involved an infant sleeping in or on the nursing pillow. The fatality data is clear: many nursing pillows on which deaths occurred are conducive to uses other than caregiver-led feeding, such as infant sleep or propping an infant, because of the nursing pillows firmness and shape.⁷ The fact that caregivers used nursing pillows in this way is not surprising given that companies have marketed these products to suggest other uses – like tummy time, infant propping, or lounging – are safe. Some of the designs, with small openings and long side arms, seem specifically designed for infant lounging and not necessarily caregiver-led feeding. Further, infants frequently fall asleep, especially during and after caregiver-led feeding.

The American Academy of Pediatrics (AAP), the largest professional association of pediatricians in the United States, developed evidence-based for reducing infant deaths in sleep environments.⁸ AAP recommends infants sleep on their backs, in their own sleep space, on a flat, firm mattress, without other product and sleep items.⁹ Based on AAP’s clear guidance, infants should never be placed on or in nursing pillows for sleep.

III. CFA and NCHR strongly support the CPSC’s proposed rule because it supports caregivers who use nursing pillows for breastfeeding while also protecting infants from future tragedies.

AAP, United States Department of Agriculture Dietary Guidelines, and World Health Organization have all highlighted the benefits of breastfeeding and recommend breastfeeding for infants.¹⁰ While nursing pillows are not necessary for breastfeeding, some caregivers find utility in the product. As such, the CPSC’s proposed rule carefully considers and balances the support of breastfeeding caregivers with infant safety. For that reason, we support CPSC’s proposed rule and provide details below.

⁶ Id.

⁷ See e.g., Carri Cottengim, et al., U-Shaped Pillows and Sleep-Related Infant Deaths, United States, 2004-2015. *Maternal and Child Health Journal* 2020; <https://doi.org/10.1007/s10995-019-02847-9>.

⁸ Rachel Y. Moon, Rebecca F. Carlin, Ivan Hand, THE TASK FORCE ON SUDDEN INFANT DEATH SYNDROME AND THE COMMITTEE ON FETUS AND NEWBORN; Sleep-Related Infant Deaths: Updated 2022 Recommendations for Reducing Infant Deaths in the Sleep Environment. *Pediatrics* July 2022; 150 (1): e2022057990. 10.1542/peds.2022-057990.

⁹ Id.

¹⁰ Joan Younger Meek, Lawrence Noble, Section on Breastfeeding; Policy Statement: Breastfeeding and the Use of Human Milk. *Pediatrics* July 2022; 150 (1): e2022057988. 10.1542/peds.2022-057988; USDA, Dietary Guidelines for Americans 2020-2025, available at: https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf#page=65; WHO, Breastfeeding: Recommendations, available at: https://www.who.int/health-topics/breastfeeding#tab=tab_2.

a. Infant Restraints

As described in the section above, nursing pillows should only be used for active caregiver-led feeding. Infant restraint systems suggest that infants can be left lounging or sleeping on or in the product. CFA and NCHR support the prohibition of an infant restraint system for nursing pillows.

b. Firmness

The proposed rule includes firmness requirements based on the recommendations of the Boise State University (BSU) Final Report. We support the evidence-backed requirements because the requirements will reduce the likelihood that the nursing pillow conforms to an infant's face.

c. Infant Containment

As described above, some nursing pillow designs, with small openings and/or long side arms, seem specifically designed for infant lounging and not necessarily caregiver-led feeding. CFA supports requirements that nursing pillow openings to be a size that is more appropriate for an infant and limits the amount of lateral support for young infants placed within the opening. By using a 9-inch probe to ensure that the product opening is wider than the probe and that the probe can be moved outward from inside the nursing pillow without contacting its surface, the requirement reduces the risk of an infant becoming entrapped.

d. Warning and Instructional Requirements

On-product warnings can serve as a secondary safety mechanism to provide consumers with critical information about product risks. For that reason, we support the prominent placement of on-product warnings and agree with CPSC staff's definition of "conspicuous" to mean "visible, when the nursing pillow is in each manufacturer's recommended use position, to a person while placing an infant into or onto the nursing pillow." Additionally, because nursing pillows are used for multiple children and multiple families, we support the warning permanence requirements, which include an additional permanence requirement to further reduce the potential for the warnings to be torn, ripped, or cut off.

Because on-product warnings and instructional materials provide important product safety information, we urge the use of other non-English language warnings/instructions, as well as diagrams that can be easily understood regardless of language.

IV. The CPSC should consider including an angularity requirement for nursing pillows because such a requirement will ensure the product is used for *active caregiver-led feeding only*.

Many caregivers believe that nursing pillows are safe for propping, lounging, or sleeping because of the product design, in part. The nursing pillows most associated with infant sleep deaths lack, among other features, firmness, and sharper corners. To ensure that there is no reasonable way on which to prop or lounge a baby on a nursing pillow, the CSPC should adopt an angular performance requirement based on BSU Final Report's suggestions.

Nursing pillows should never be used for infant sleep. The CPSC must finalize a rule that makes clear that caregivers cannot use nursing pillows in this way.

V. Conclusion

The fatality data demonstrates a real risk posed by certain nursing pillow designs. The CPSC's proposed rule is informed by the data, as well as evidence-based sleep and breastfeeding policies. The proposed rule balances infant safety and the needs of breastfeeding caregivers. It ensures that nursing pillows are less likely to be used for uses other than active caregiver-led feeding. CFA and NCHR strongly support the CPSC's proposed rule and urge the agency to act quickly.

We urge the CPSC to adopt the earliest suitable effective date, but also provisions preventing the sell-off of products that will become non-compliant with this rule.

Respectfully submitted,

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