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Office of the Secretary
Consumer Product Safety Commission
4330 East West Highway, Room 820
Bethesda, MD 20814

Submitted via www.regulations.gov

Comments of Kids In Danger to the Consumer Product Safety Commission on the Notice of Proposed Rulemaking for Nursing Pillows (CPSC-2023-0037)

Introduction

Kids In Danger (KID) submits the following comments in response to the U.S. Consumer Product Safety Commission (“CPSC” or “Commission”) in the above-referenced matter.¹

Background

The Danny Keysar Child Product Safety Notification Act, Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the CPSC to promulgate consumer product safety standards for durable infant or toddler products. The Commission is proposing a safety standard for nursing pillows. The Commission is also proposing to amend CPSC's consumer registration requirements to identify nursing pillows as durable infant or toddler products and proposing to amend CPSC's list of notice of requirements (NORs) to include such nursing pillows. This proposed rule would help ensure that consumers continue to have access to nursing pillows for feeding while reducing hazards that have been identified for this product category.

KID strongly supports the proposed safety standard for nursing pillows. When the CPSC provided data along with a letter to the ASTM International urging a working group to address hazards with nursing pillows, we were dismayed by the large number of infant deaths involving nursing pillows. Prior to this, it was perhaps a hidden hazard of nursing pillows, which are ubiquitous on baby registries and online pictures of infants, and considered an important tool to encourage breastfeeding. KID shares the goal of encouraging breastfeeding and making it more comfortable and accessible for all new parents. But the number of deaths in the CPSC’s

¹Proposed Rule: Safety Standard for Nursing Pillows, <https://www.regulations.gov/document/CPSC-2023-0037-0002> (September 23, 2023).

reporting to ASTM² require action to both discourage use for anything but active breastfeeding or bottle feeding and make it less likely a child would be placed on the product for sleep or be injured if they were.

The American Academy of Pediatrics publishes guidelines for safe infant sleep that stress the importance of a firm flat sleep surface such as a crib or bassinet without any soft padding or loose coverings³. The CPSC adopted the Safety Standard for Infant Sleep Products⁴ that describes what products may be sold for sleep for infants under five months. Soft shaped products such as nursing pillows and loungers are not among the products that have been approved for safe infant sleep. And any product not meeting a strong standard for use as a sleep product is unsafe for any sleep, such as overnight, napping, or even just ‘resting’. Parents will foreseeably leave a sleeping baby to care for another child, step into another room for a ‘minute’ or assume the product is safe for short periods of sleep. Even babies being watched on an inclined soft product can move into a position that might not look dangerous but is reducing their ability to draw adequate air.

Recommendations

The CPSC’s data, which may be an undercount, shows that from 2017 through 2021, almost two babies died every month (1.7) involving this one product interaction⁵. In 2020, that number was over three per month (3.17). Babies under four months are most impacted, representing 71% of the deaths. And most importantly, most of the deaths took place when a child was sleeping on the product, not during nursing. Babies were put in the product on the floor, in sleep products such as cribs and bassinets or on adult beds or other products. The CPSC’s data speaks clearly for the need for a standard for nursing pillows to reduce the hazards.

² <https://www.cpsc.gov/s3fs-public/Nursing-and-Support-Pillow-VS-request.pdf>

³ <https://publications.aap.org/pediatrics/article/150/1/e2022057990/188304/Sleep-Related-Infant-Deaths-Updated-2022>

⁴ <https://www.regulations.gov/document/CPSC-2017-0020-0180>

⁵ While not restated here, it is important to remember that more than one risk factor may be present in a sleep-related infant death. While nursing pillows were involved in all the deaths here, there are other factors. The importance of a safe sleep environment for newborns and infants must continue to be communicated to families and expectant parents.

KID believes that the draft standard will reduce the likelihood that vulnerable infants will be placed to sleep in these products, while not completely eliminating the hazard. But the importance of support for breastfeeding must also be considered. In addition to the changes to the products themselves and the warnings, companies selling these products, along with health care, consumer and other organizations must strengthen messaging on the dangers of infants sleeping on products that aren't designed for infant sleep.

The five proposed performance requirements will contribute to safer products without a negative impact on the use of the product as a nursing pillow. One of the impacts will be to reduce the use of the nursing pillow for propping babies for interaction or sleep when not nursing. This is necessary to reduce the known deaths in the products.

By increasing the firmness of the nursing pillow and opening up the center on U or C shaped pillows, the rule will lessen the convenience of propping the baby on the product as a lounger or sleep surface since it will appear less likely to support a baby in a semi-inclined position. This, along with strong warnings and more education by all parties, will hopefully reduce the likelihood of babies being placed in the product separate from nursing.

KID strongly supports the removal or ban of infant restraints on these products. There is no need when the parent is holding the child on the product for nursing and their inclusion implies the ability to use the product in different ways that don't involve a caregiver actively holding the child.

With regards to an angularity requirement, KID shares the concern about introducing unknown hazards. However, such products have been on the market for many years and at least from this data, don't seem to have introduced additional hazards. However, it is imperative that data collection continues to measure changes in behavior with the new designed products – with or without angularity. If propping or use as an incline for resting continues, more might be needed including increasing angularity or perhaps requiring shapes such as a long shape with no curvature around the caregiver (or infant).

The CPSC should also consider a stronger message about safe sleep and the danger the product poses if a child is left on it unattended or sleeping. Beyond the strong warning on the product, a

message that requires the consumer to handle it to remove from the product to increase the likelihood of it being read would give parents another chance to learn about proper use. And because these items are often handed down or sold after use, the same message should be printed on the product. These products often involve covers as well that are sold by the original manufacturer and third parties. CPSC should require the warnings both on the product and on any covers – either sold with the product or separately.

During the same time period the CPSC has been researching and drafting this rule for nursing pillows, work has also been ongoing in sub-committee of ASTM International to draft a voluntary standard. As with other Section 104 rules, the continuing dialogue and negotiations of the ASTM process can provide valuable insight to the rulemaking process from stakeholders. But it is important for CPSC to use that data and input to craft a strong final rule that can be enforced.

Respectfully submitted,

Nancy Cowles
Executive Director
Kids In Danger
312.218.5593
nancy@kidsindanger.org

Kids In Danger is a nonprofit organization dedicated to protecting children by fighting for product safety.