

# United States Senate

WASHINGTON, DC 20510

December 19, 2019

The Honorable Robert S. Adler  
Acting Chairman  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

Dear Acting Chair Adler:

Pediatric experts and advocates have reported a substantial increase in the number of child and adolescent injuries since the U.S. Court of Appeals for the Tenth Circuit vacated the Consumer Product Safety Commission's (CPSC) safety standard for round, high-powered magnets. We urge the CPSC to provide our offices and relevant stakeholders with an update on data collection and other monitoring efforts the CPSC has engaged on since the safety standard was vacated, plans for future rulemaking related to this product, and whether the Commission believes additional statutory authority is necessary for the Commission to fully address the critical product safety hazard.

As you are aware, in September 2014, CPSC issued a safety standard for high-powered magnet sets that pose serious, and potentially deadly, risks to children. This safety standard restricted the sale of high-powered magnet sets. According to a 2017 study published in the *Journal of Pediatrics*, magnet ingestions after the 2014 CPSC ban decreased by nearly 80 percent. However, in November 2016, the U.S. Court of Appeals for the Tenth Circuit vacated the CPSC's rule on high-powered magnet sets and remanded it to the CPSC to pursue further proceedings consistent with accurate and representative data requirements.

Since the CPSC's rule was vacated and these products reintroduced to the market, medical data suggests an uptick in the number of related injuries. For example, the National Poison Data System (NPDS) indicates that in 2017 about 300 cases of severe magnet ingestions were reported each year. However, after 2017, the same year CPSC lifted the ban on high-powered magnets, the total number of cases reported increased to approximately 1,600, an increase of 490 percent. The data also shows the number of related hospitalizations reported increased by 420 percent, and that the population most affected by this increase are between the ages of 6 years and 12 years. Children who ingest high-powered magnets can suffer from morbid conditions including respiratory depression and hypotension.

Several medical organizations – including the North American Society for Pediatric Gastroenterology, Hepatology and Nutrition – have expressed grave concern about the hazards presented to children by these magnets and have recommended these magnets be banned from the market again. In August 2019, Oregon Health & Science University (OHSU) published an

article warning about the number of magnet-related injuries that required medical intervention, citing 54 magnets that required medically necessary removal from pediatric patients in just over a month.

According to members from the pediatric gastroenterology community, ingestion of high-powered magnets is more likely to cause injury to a child than ingestion of most other consumer products. While most ingestion cases result in children receiving an x-ray and letting the object pass naturally, high-powered magnet ingestions may result in additional x-rays, surgery consultations, transfers to pediatric hospitals, and multiple invasive surgeries, resulting in an increased financial and emotional burden to the patient and their family. In 2014, a 19-month-old from Columbus, Ohio was misdiagnosed with a virus after ingesting multiple magnets and passed away the following day.

The CPSC's initial intent was to ban high-powered magnet sets, as they present a significant threat to the safety of children. However, since these products have been reintroduced to the market, to our knowledge, the CPSC has not revisited its efforts to restrict these products despite receiving countless correspondences from reputable pediatric professionals, advocates, and organizations, expressing concern regarding the dangers these products continue to present to children. Given the rise in pediatric emergencies involving high-powered magnet ingestions, the emotional and financial burdens placed on children and their families, and the expert opinion of members within the pediatric field, it is past time to take action on this matter.

Therefore, we request that you provide us with an update on the actions CPSC has taken to address the health and safety risks presented by high-powered magnet sets after the Tenth Circuit ruling. We also urge the CPSC to provide an update on its current strategies to strengthen and prioritize protections for children, revisit a ban on these dangerous products, and engage in rulemaking as quickly as possible to ensure the strongest consumer protections possible to protect future children from the dangers associated with this product. Finally, if the Commission believes it lacks appropriate statutory authority to address this serious hazard, we request guidance on legislative language that would provide such authority.

Thank you for your prompt consideration on this critical issue. We look forward to receiving your written response.

Sincerely,



Sherrod Brown  
United States Senator



Richard Blumenthal  
United States Senator