



Statement of Robyn Grant, Director of Public Policy and Advocacy  
The National Consumer Voice for Quality Long-Term Care  
for the  
Consumer Product Safety Commission  
Public Hearing on Agenda and Priorities for FY 2014

June 20, 2012

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) is a national non-profit organization that advocates on behalf of recipients of long-term care in all settings. Our membership consists primarily of consumers of long-term care services, their families, ombudsmen, individual advocates, and citizen advocacy groups. For more than 35 years, the Consumer Voice has promoted quality care and consumer protection through legislative reforms, policy advocacy, and consumer and public education. Preventing serious injuries and deaths from asphyxiation, suffocation and falls on bed rails has been an objective of the Consumer Voice and its members for decades, and we appreciate this opportunity to request that you address this recurring tragedy by promulgating standards for adult bed rails in FY 2014.

Bed rails are routinely used in nursing facilities, assisted living facilities, and private homes based on a pervasive myth that they are a safe, benign, effective means of fall prevention in the elderly. Many well-meaning family members of frail elders believe that the “security” of a bed rail will keep their loved one safe, although research shows that fall rates are actually higher with rails and more likely to cause injury--in addition to the significant risk of asphyxiation. Between 1985 and 2009, the Food and Drug Administration received reports of 803 incidents of patients caught, trapped, entangled, or strangled in hospital beds. These included 480 deaths, 138 non-fatal injuries, and 185 near misses due to staff intervention. However, these figures do not reflect the number of elderly who may be at risk but whose injuries are never recorded by the FDA or CPSC. For example, an Administrative Law Judge last year upheld New Mexico’s citation against a nursing home that allowed a resident to become entrapped twice. On October 1, 2008, a nurse found the resident sitting on the bed with his right arm caught in the rail and with a “very red impression of the bed rail on that arm,” as well as redness on his other arm. Less than a week later, nursing notes said the resident “was found lying on his right side between the side rail and the mattress with his right arm caught” and “red marks on his leg above the knee, on his upper arm, and on his shoulder.”<sup>1</sup>

Most adult bed rail victims are frail, elderly, and confused. Often they have Alzheimer’s disease or another form of dementia associated with aging. Federal regulations prohibit bed rails’ use in nursing homes as physical restraints; and there is strong agreement among professionals in multiple fields—including researchers, practitioners, government administrators, and consumer advocates—that the use of bed rails should be curtailed and alternatives to prevent falls provided. Some health care professionals and researchers advocate banning them because the risks they pose outweigh any medical benefits for many users.

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<sup>1</sup> Department of Health and Human Services Departmental Appeals Board Civil Remedies Division: Sunshine Haven Lordsburg (CCN: 32-5109), Petitioner v. Centers for Medicare and Medicaid Services. Docket Nos. C-09-442, C-09-445, C-09-446, C-09-447, C-09-498, and C-09-499 Decision No. CR2408 Date: August 5, 2011; p. 18.

William A. Hyman, professor emeritus of biomedical engineering at Texas A&M University, warned nursing home providers in 2008, “Bed-rail entrapments and deaths continue to occur in nursing homes, other facilities, and in the home because rail and bed designs that are clearly dangerous continue to be used. Such rails may be in your inventory, or in the inventory of your rental supplier.”<sup>2</sup>

The research and advocacy of the daughter of one victim, Gloria Black of Portland, Oregon, has refocused attention on the tragic consequences of the government’s failure to take the same forceful action on adult bed rails that it has taken on children’s cribs and children’s bed rails. Ms. Black’s family, following the recommendation of the assisted living facility in which she lived, purchased the device that ultimately killed her mother. The device was one of many available to consumers that carry no warning information about dangers that may be obvious only after a tragic accident has occurred. These tragedies are likely to multiply as the population ages and more and more elderly receive care in their homes rather than in institutional settings.

One year ago, the Consumer Voice urged you to regulate the manufacturing and marketing of adult bed rails, which are sold to the public over the internet and in walk-in medical supply stores with no warning about the serious risk they pose to either frail adults or children.<sup>3</sup> We pointed out in our comments on proposed changes to ASTM F2085-10a regulating portable children’s bed rails that the CPSC had recalled drop-rail baby cribs after a handful of deaths, while there had been no regulatory remedy after more than 800 reported deaths, injuries, and near escapes on adult bed rails. We urged the CPSC to recall unsafe non-children’s bed rails and bed rail-type products; to inform the public, health care providers and workers about dangers related to their use and patients’ right to refuse them; and to prohibit their use with vulnerable, at-risk individuals.

Although the commission’s final regulations did not include the Consumer Voice’s recommendations, we would like to thank you for noting public comments you received about the danger of bed rails to older adults and for your 2012 Performance Budget (Operating Plan) to review CPSC epidemiological data of deaths and injuries associated with bedrails for consumers 13 and older. This study is a step in the right direction to finally provide vulnerable elders the same protection that has been afforded to infants and children through CPSC recalls and regulation of cribs, children’s bed rails, and other hazards.

### **Recommendation**

Anticipating that the study will be completed in 2012, the Consumer Voice recommends that in FY 2014, you conduct rulemaking to enact a safety standard to address deaths and injuries associated with the use of adult bed rails.

Thank you again for the opportunity to comment. Attached to my statement are drawings illustrating the ways in which individuals become entrapped and asphyxiated, strangled or suffocated by bed rails.

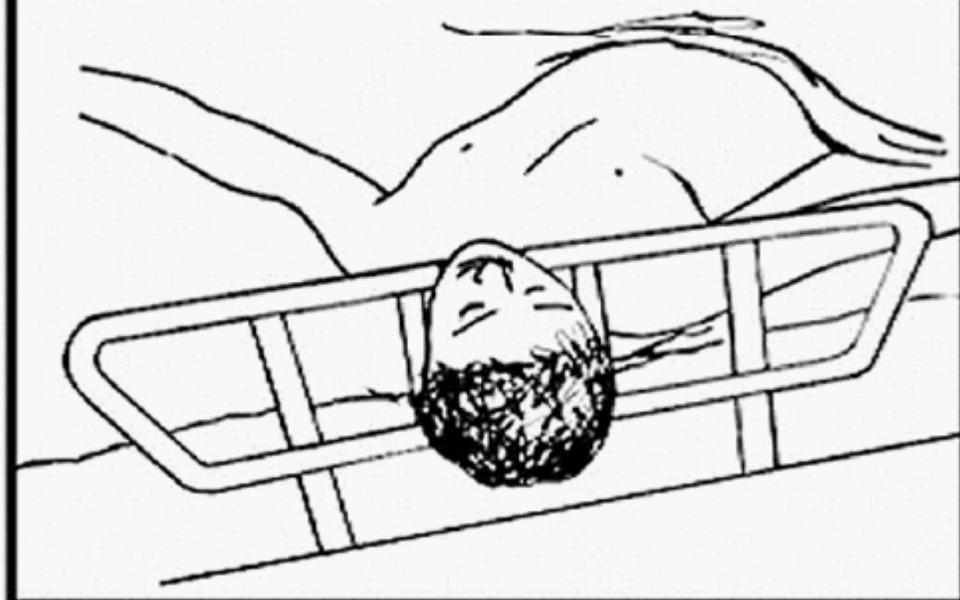
*Contact: Robyn Grant, Director of Public Policy & Advocacy, Consumer Voice; 202-332-2275 or [rgrant@theconsumervoice.org](mailto:rgrant@theconsumervoice.org).*

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<sup>2</sup> William A. Hyman, “Bed-rail entrapments still a serious problem,” McKnight’s Long Term Care News,” July 24, 2008.

<sup>3</sup> The National Consumer Voice for Quality Long-Term Care, Letter from Sarah F. Wells to the Honorable Inez Moore Tenenbaum, RE: Proposed Rulemaking - Safety Standard for Portable Bed Rails CPSC Docket No. CPSC-2011-0019; 16 CFR Part 1224, June 27, 2011.

Zone 1 - Entrapment within rail



Zone 3 - Entrapment in horizontal space between rail and mattress

