

**Maryland Association of School Health Nurses**



**Committee:** House Ways and Means Committee

**Bill Number:** House Bill 117 - Public Schools - Airway Clearing Device Availability and Use - Policy (Bowen Levy Airway Clearing Device Act)

**Hearing Date:** January 29, 2026

**Position:** Oppose

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The Maryland Association of School Health Nurses (MASHN) opposes *House Bill 117 - Public Schools - Airway Clearing Device Availability and Use - Policy (Bowen Levy Airway Clearing Device Act)*. We appreciate that the bill’s intent is to address choking incidents in Maryland schools; however, we have serious concerns about the unintended impact on the safety of students for the following reasons:

- **Against FDA Advice and National Standards:** In April 2024, the Food and Drug Administration (FDA) issued an advisory notice to encourage the public to follow established choking protocols of the American Red Cross and the American Heart Association. The advisory notice states that “Consumers, parents, caregivers, and health care providers should be aware that using an unauthorized anti-choking device before established protocols could delay critical life-saving action.”<sup>i</sup>

The American Red Cross and American Heart Association do not include airway clearing devices in protocols on choking emergencies. We are aware of only one state, Texas, which recently adopted legislation mandating schools have airway clearing devices over the objection of the Texas Pediatric Society and the Texas School Nurses Association.<sup>ii</sup>

- **Creates Legal Jeopardy for Nurses, School Personnel, and School Systems as a Result of FDA Warnings to Manufacturers:** Under the bill, school systems would be required to ensure there was an airway clearing device in every school. The legislation also provides for immunity except in cases of willful or gross negligent acts.

However, there is no viable avenue for school systems to select devices that are high-quality, efficacious and safe. Unlike devices such as automated external defibrillators, airway clearing devices only require registration with the FDA, rather than review and approval. Furthermore, the FDA has issued warnings on two of the most common airway clearing devices.<sup>iii</sup> Thus, school systems and anyone administering airway clearing devices, including school nurses, could face legal jeopardy despite the bill's provisions.

- **Research is Insufficient and Contradictory:** The research on the efficacy of airway clearing devices is insufficient and contradictory. While airway clearing devices show some potential, a recent analysis of the research advises that “ACDs show promise, but further research is needed to determine their role alongside established methods.”<sup>iv</sup> The need for more research is underscored by a study published in 2023 in *Laryngoscope Investigative Otolaryngology*. This study found that with the exception of choking on one type of food (saltines), the tested devices “were entirely unsuccessful in relieving foreign body aspiration. Additionally, both devices may cause significant pressure and injury to the oral cavity in a clinical setting.”<sup>v</sup>

We appreciate the bill's intent to protect students during choking incidents. However, we have serious reservations about incorporating airway clearing devices into school health protocols. Therefore, we ask for an unfavorable vote. If we can provide any information, please contact Robyn Elliott at [relliott@policypartners.net](mailto:relliott@policypartners.net).

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<sup>i</sup> <https://www.fda.gov/medical-devices/safety-communications/update-fda-encourages-public-follow-established-choking-rescue-protocols-fda-safety-communication#actions>

<sup>ii</sup> <https://capitol.texas.gov/tlodocs/89R/witlistbill/pdf/HB00549H.pdf#navpanes=0>  
<https://capitol.texas.gov/tlodocs/89R/publiccomments/billhistory/HB00549H.pdf#navpanes=0>

<sup>iii</sup> <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/lifevac-llc-713455-09182025>

<https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/dechoker-llc-614629-05102021>

<sup>iv</sup> <https://www.sciencedirect.com/science/article/pii/S1755599X25000059>

<sup>v</sup> <https://pmc.ncbi.nlm.nih.gov/articles/PMC10278115/pdf/LIO2-8-708.pdf>