



Marion County Board of County Commissioners

County Attorney

601 SE 25th Ave.
Ocala, FL 34471
Phone: 352-438-2330
Fax: 352-438-2331

MEMORANDUM

TO: Board of County Commissioners
Mounir Bouyounes, P.E., County Administrator

FROM: Matthew G. Minter, County Attorney

DATE: August 11, 2026

SUBJECT: Discussion of Public Health Threat Posed by the Possession, Sale, Distribution and Use of Kratom in Marion County, and Possible Local Regulatory Responses to This Public Health Problem

Background

At a recent meeting of the Regional Opioid Settlement Committee, there was receipt of public comment describing the serious public health threat posed by the sale of Kratom-based products in Marion County. The Committee identified the unregulated proliferation of kratom as a new contributor of substance abuse by both existing and recovering addicts, as well as a hook for young persons under age 21 who do not perceive the dangers of use of these products. This situation creates a direct impediment to regional opioid mitigation strategies, and a corresponding need for intervention. The Committee engaged in extensive discussion of the subject, including the possibility of adoption of a local ordinance to address the problem. As a result of the Committee discussion, Assistant County Attorney Thomas Schwartz conducted research to determine whether any other county had enacted such an ordinance and found an example in Sarasota County. Mr. Schwartz prepared a working draft ordinance that was intended to provide *an example of one possible regulatory approach*, as a basis for discussion by local elected officials.

What is Kratom?

Kratom (*Mitragyna speciosa*) is a tropical tree native to Southeast Asia, and its leaves are often consumed in powdered or extract form for their stimulant and sedative effects. Kratom contains two primary alkaloids: Mitragynine and 7-hydroxymitragynine (7-OH). While 7-OH occurs naturally in small amounts in kratom leaves, manufacturers increasingly concentrate or synthesize 7-OH to produce highly potent products in a variety of forms, including tablets, gummies, drink mixes, and liquid extract shots, with opioid-like effects that can be significantly more potent than the effects of morphine.

The U.S. Food and Drug Administration (FDA) has issued stark warnings regarding concentrated kratom 7-OH products, noting that these “concentrated 7-OH opioid products are far more dangerous than traditional kratom leaf products.” (Makary, M.A., (2025, July 29), Letter to Colleagues regarding 7-hydroxymitragynine (7-OH). U.S. Food and Drug Admin. Alarmingly, research cited by the FDA indicates that 7-OH is 13 times more potent than morphine, while a 2025 National Institute on Drug Abuse study found that “7-OH resulted in respiratory depression at a magnitude three times more severe than morphine. (Makary, M.A. (2025, July 29), Beware: Synthetic kratom is powering a new opioid crisis. N.Y. Post.

These products are widely sold in gas stations, smoke shops, and online retailers, often marketed as dietary supplements or wellness products. They are largely unregulated and often lack clear labeling. Consumers frequently cannot determine the potency or dosage of the active ingredients.

As a result, public health officials are witnessing a nationwide surge in medical emergencies linked to enhanced kratom products, and according to the FDA Commissioner, the agency is warning that “aside from addiction, 7-OH side effects include withdrawal symptoms, insomnia and anxiety, seizures, and fatal respiratory depression.” (Makary, Letter to Colleagues, supra.)

Federal and State of Florida Regulatory Framework

No federal law expressly bans the sale of kratom or 7-OH; however, due to the explosive popularity and high abuse potential of these products, federal regulatory agencies are evaluating restrictions. The FDA has confirmed that it has “already issued warning letters to several firms for illegally distributing 7-OH projects” and is “working alongside our partners at the [DEA] to move forward with adding certain 7-OH products to the **controlled substance schedules**,” (Makary, Letter to Colleagues, supra), and the DEA has listed kratom as a “drug of concern.”

At the state level, Section 500.92, Florida Statutes, the “**Florida Kratom Consumer Protection Act**,” bans the selling or giving of kratom items to anyone under 21 years of age. A violation of the statute is punishable as a **second-degree misdemeanor** and enforcement is handled through the FDLE. **Kratom product** is defined as any food, drink, or dietary supplement containing parts of the *Mitragyna speciosa* plant, its extracts, or its synthetic alkaloids, whether manufactured as a powder, capsule, pill, or liquid beverage that is sold, delivered, bartered, furnished or given directly or indirectly to any person under 21.

Florida’s Attorney General extended an **emergency rule** on June 22, 2026, to control highly concentrated 7-OH and several related chemical products being sold across Florida. Noting that **Florida medical examiners have linked at least 587 overdose deaths to 7-OH since 2013, with hundreds of recent poison control cases** – more than 25% requiring ICU care – Florida Surgeon General Dr. Joseph A. Ladapo stated, “7-OH poses a serious threat to public health.” Key provisions of the rule include placing 7-OH in excess of strict limits as a **full Schedule 1 drug**, enabling felony-level arrests and prosecutions (with criminal penalties up to 30 years in prison), product seizures, and shutdowns of illegal manufacturers and sellers.

Florida Statutes. Section 500.92, Fla. Stat. [Laws 2023 c. 2023-182] is the **Florida Kratom Consumer Protection Act**. Attached hereto as Ex. A. The Act defines the term “kratom product,”

and subsection (3) declares that “it is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, *any kratom product to a person who is under 21 years of age.*” Subsection (4) provides that a violation is a second-degree misdemeanor. Subsection (5) provides that the **department** [of Health] **shall adopt rules to administer the law.** Rule 5K-4.030 Kratom Products, is attached hereto as Ex. B. Rule 5KER26-9. Requirement to Label Kratom Products [Emergency Action effective July 1, 2026] , is attached hereto as Ex. C.

Kratom products are currently being sold in Marion County retail establishments in two primary forms: **The raw leaf of the plant *Mitragyna speciosa*** or any food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended for human consumption that contains any part of the leaf of the plant *Mitragyna speciosa* **or any extract, or 7-OH, synthetic alkaloid, or synthetically derived compound of such plant or its leaf** including, but not limited to, any powder, capsule, pill, beverage, or other edible product intended for human consumption. The synthetically derived compound is thought to pose the greatest public health risk.

The Current Situation It is noted that Sec. 500.92, Fla. Stat., the Florida Kratom Consumer Protection Act, is **not a complete ban** on sale or possession of Kratom products. Subsection (3) makes it unlawful to sell, barter, furnish, or give, directly or indirectly, **any kratom product** to a person who is under 21 years of age. Thus, this ban applies to both the leaf form, and the synthetic form of Kratom products, for that age group. The ban does not apply to providing the Kratom products to persons 21 years of age and older. Thus, under the statute, and related Administrative Rules, Kratom products are regulated, but not banned across the board. Given the appearance of neon signs in the windows of local retail establishments offering Kratom products for sale, the current state-level regulatory scheme may be having limited impact on this public health issue.

Because of the public health concerns related to Kratom products were raised at a recent meeting of the Regional Opioid Settlement Committee, this memorandum is presented to the Board for informational and discussion purposes.