February 11, 2026

Chair and Members

Kansas House Committee on Health and Human Services

Kansas State Capitol

Topeka, Kansas 66612

Re: HB 2765 – Written Testimony Opposing Scheduling of 7-Hydroxymitragynine Without a Concentration Limit; Proposed Amendment

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Dear Chair and Members of the Committee:

I respectfully submit this written testimony regarding HB 2765, which as currently drafted would add 7-hydroxymitragynine (7-OH) to Schedule I of the Kansas Uniform Controlled Substances Act without establishing any concentration threshold. I urge the Committee to **amend the bill** to include a maximum permissible **concentration limit of 400 parts per million (ppm)** before moving it forward. This approach is consistent with the FDA's own stated position — that concentrated synthetic 7-OH products, not natural kratom leaf, are the public health concern — and with the targeted enforcement actions subsequently taken by Florida and Kentucky, whose approach Kansas should follow rather than exceed.

I. The Bill As Introduced Contains No Upper Concentration Limit

HB 2765 proposes to place 7-hydroxymitragynine on the Schedule I controlled substances list. Critically, the bill contains no language establishing a threshold concentration below which a kratom product would remain lawful. Without such a limit, any kratom leaf, powder, capsule, or extract — regardless of its naturally occurring trace amount of 7-OH — would become a Schedule I controlled substance the moment this bill takes effect.

7-hydroxymitragynine is an oxidative metabolite found naturally in the kratom plant (Mitragyna speciosa) at very low levels — typically well below 400 ppm in commercial leaf and powder products. A blanket schedule placement with no concentration floor would criminalize the possession, sale, and use of all such products, sweeping in consumers who use kratom for wellness purposes and small businesses who operate lawfully under current Kansas law.

II. The FDA Itself Has Distinguished Between Concentrated Synthetic 7-OH and Natural Kratom Leaf

The Food and Drug Administration addressed this precise distinction on July 29, 2025, when it recommended that concentrated synthetic 7-OH opioid products be classified as Schedule I under the federal Controlled Substances Act. Concentrated 7-OH products contain synthetically created 7-OH at concentrations roughly 100 times higher than what is found in dried kratom leaf, producing a product that is approximately 13 times more potent than morphine.

Critically, FDA Commissioner Martin A. Makary was explicit that the agency's action was not directed at natural kratom: *"We are not targeting the kratom leaf or ground-up kratom. We are targeting a concentrated synthetic byproduct that is an opioid."* The FDA's official press release likewise stated that natural kratom leaf products present "minimal health concerns." HB 2765, as written, ignores this distinction entirely.

III. Florida Has Implemented a Targeted Concentration Limit — Kansas Should Do the Same

Following the FDA's guidance, Florida Attorney General James Uthmeier issued an emergency scheduling order on August 13, 2025, limiting allowable concentrations of 7-OH in Florida. That rule was updated on August 19, 2025 to cap allowable 7-OH concentrations at 0.04% by dry weight — equivalent to 400 ppm — effectively removing concentrated synthetic 7-OH opioid products from the market while leaving natural leaf kratom entirely unaffected. There language is below:

> (1) Under the authority of Section 893.035, F.S., the following substance is hereby added to Schedule I, subsection 893.03(1)(a), F.S.: 7-Hydroxymitragynine (methyl

> (E)-2[(2S,3S,7aS,12bS)-3-ethyl-7a-hydroxy-8-methoxy-2,3,4,6,7,12b-hexahydro-1Hindolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate) concentrated at a level above four hundred parts per million on a dry-weight basis. This designation does not apply to mitragynine.

Kentucky, a the direction of Governor Beshear, similarly established a 400 ppm ceiling for 7-hydroxymitragynine in kratom products.

Both states acted on the same policy judgment the FDA articulated: the public health concern lies with high-concentration, semi-synthetic 7-OH isolates; not with the naturally occurring levels found in traditional kratom plant material. Kansas should adopt that same line, not discard it.

IV. Proposed Amendment

I respectfully request that the Committee consider amending HB 2765 to add language to the following effect:

> Amend page 8, line 36 – ~~(47)~~(32)7-hydroxymitragynine (7-OH) concentrated at a level above four hundred parts per million on a dry-weight basis. This designation does not apply to mitragynine.

This amendment would achieve the bill's stated public-health objective, restricting access to high-potency 7-OH concentrates, while avoiding criminalization of ordinary natural kratom consumers and small businesses operating lawfully in Kansas today, and while keeping Kansas aligned with federal guidance and the actions of peer states.

V. Conclusion

The FDA, Florida, and Kentucky have all drawn the same line: concentrated synthetic 7-OH is the problem; natural kratom leaf is not. HB 2765 as introduced draws no line at all, and in doing so goes significantly further than federal regulators and neighboring states have found necessary or appropriate. I urge the Committee to adopt the 400 ppm amendment described above so that Kansas targets the actual harm without banning the product millions of Americans use safely every day.

Thank you for your consideration of this testimony.

Respectfully submitted,

Matt Lowe

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Global Kratom Coalition