AMERICAN KRATOM ASSOCIATION

OHIO HOUSE OF REPRESENTATIVES HEALTH COMMITTEE
HEARING ON HB 236 (OH KCPA)

PROPONENT TESTIMONY OF MAC HADDOW, SENIOR FELLOW ON PUBLIC POLICY
AMERICAN KRATOM ASSOCIATION
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Chair Lipps, Vice Chair Holmes, Ranking Member Russo, and members of the House Health Committee, thank you for convening this hearing today on HB 236, the Ohio Kratom Consumer Protection Act (often referred to as the "KCPA"). My name is Mac Haddow, and I serve as the Senior Fellow on Public Policy for the American Kratom Association (AKA), representing the 11 - 15 million kratom consumers in the United States.

The KCPA has one purpose: To protect Ohio consumers from dangerously adulterated kratom products that are currently widely available both here in Ohio, and in many other states.

Today, an Ohio consumer can purchase what they believe to be a pure kratom product and after consuming it, notice it has a different effect. They are duped into thinking it is a better product. One that gives a more powerful "kick."

The truth is, pure kratom is not a very appealing product for recreational use. It has a bitter taste, it does not produce any euphoric high, and if you take too much of it you feel sick to your stomach.

Kratom has increased in popularity nationwide—growing from a consumer population estimated in 2016 to be approximately 3-5 million, to an estimated 11-15 million kratom consumers today—with an economic contribution to the U.S. market of $1.3 billion.

That's what has attracted the interest of the bad actors who adulterate pure kratom with fentanyl, heroin, and morphine—the adulterants of choice. Those powerful drugs produce a euphoric high that is the signature of opioid products. A little dose of these drugs drives kratom sales to customers who just think it is a better kratom product.

These circumstances lead to dangerous addictions and overdose deaths. Not from pure kratom, but from the adulterants added to pure kratom, which deceive consumers.

Two years ago, the Ohio Board of Pharmacy proposed to add kratom to the Ohio Controlled Substances list. They did so, at least in part, in response to the repeated pronouncements of

the FDA about the purported dangers of kratom—including that it is an opioid, has a high addiction liability, and causes deaths (even in pure form).

None of those claims are accurate or based on science.

You do not have to believe me or the impassioned testimony of hundreds of Ohio residents, who testified in mid- 2019 at an Ohio Board of Pharmacy public hearing to oppose the proposed ban on kratom. One simply must look at the relevant facts and data.

When the FDA made its first attempt to have kratom classified as a Schedule I substance in 2016, the Drug Enforcement Administration (DEA) took the unprecedented step of actually withdrawing the scheduling notice, instructing the FDA to provide a more complete analysis of the addiction liability, safety, and deaths associated with kratom use.

At that time, 51 members of the U.S. House of Representatives, and 13 members of the U.S. Senate, objected to the scheduling notice on kratom.

For context, among the U.S. Senators who wrote to the DEA included then Senator Orrin G. Hatch, arguably one of the most conservative members of the Senate at that time, and Senator Bernie Sanders who was without doubt the most liberal.

This is not a partisan issue; this is a public policy issue, which demands that science be the basis for any decision on consumer access to pure kratom products.

In 2018, the U.S. Department of Health and Human Services (HHS) rejected the second FDA petition to schedule kratom and provided a scathing rebuttal to the FDA, characterizing their presentation as having "disappointingly poor evidence and data." As you have heard today, the FDA position has been directly contradicted by more than 100 new studies.

The FDA was undeterred. They supported a recommendation to the U.N. Commission on Narcotic Drugs to add kratom as a controlled substance to the 1961 and 1971 treaty conventions that would have required the U.S. to schedule kratom. But on December 1, 2021, the WHO Expert Committee on Drug Dependence—a body delegated to conduct scientific assessments of any substance recommended for scheduling internationally—announced its decision that there was insufficient evidence to schedule kratom.

In baseball, three strikes and you are out. But the FDA is not counting.

In fact, the FDA has refused to enforce existing laws to regulate the kratom marketplace, and that has encouraged the bad actors to continue their sales of dangerously adulterated kratom products. In addition, the FDA has ignored their statutory responsibility to enforce the requirement that kratom vendors cannot make therapeutic claims for any product that has not received a new drug approval from the FDA.

The AKA actively monitors the marketing activities of these bad actor kratom vendors and have, over the past 18 months, referred more than 60 of these kratom vendors who are violating the Food, Drug, and Cosmetic Act to the FDA. There has subsequently not been a single warning letter or enforcement action to force those bad actor kratom vendors to shut down.

This neglect by the FDA is not unique to kratom. The FDA has taken similar approaches to CBD and hemp, which has compelled states to take action to protect their constituents.

Today, the National Institute on Drug Abuse (NIDA) has opposed the FDA on kratom, and Director Nora Volkow has testified before Congress that kratom should not be banned but regulated appropriately and new research should be undertaken. NIDA currently has more than $30 million in grants for kratom research. NIDA researched the FDA claims that kratom caused deaths, and concluded those deaths were from polydrug use or adulterated kratom products.

The U.S. Congress has adopted report language in the last three appropriations bills opposing any kratom ban and encouraging more funding for research.

HHS has strongly opposed the FDA's scheduling recommendation for kratom.

The CDC has published data that directly contradicts the false claims by the FDA that kratom is the cause of consumer deaths. That data shows any deaths are caused by polydrug use or adulterated kratom products.

I wish that each of you had been able to observe the full day of testimony by hundreds of Ohio kratom consumers at the hearing convened in 2019 by the Ohio Board of Pharmacy. You would have heard your constituents explain how kratom had improved their lives, allowed them to become fully functional husbands or wives, be productive employees, and become better parents to their children. Many said that kratom literally saved their lives.

That message is mirrored in public hearings across America. It is my hope that the Ohio Legislature will take the important step of enacting HB 236 to protect Ohio kratom consumers.

The kratom community is grateful for this hearing on this important message. I would be happy to answer any questions.

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