

6/22/2026

The Honorable Theresa Gavarone
1 Capitol Square, First Floor
Columbus, OH 43215

The Honorable Jamie Callender
77 South High Street, 13th Floor
Columbus, OH 43215

Co-Chairs Callendar, Gavarone, and Members of the Joint Committee on Agency Rule Review:

My name is Cameron McNamee, and I am the Director of Policy and Communications for the Ohio Board of Pharmacy. Prior to your questions, I wanted to provide you a brief update on the interpretation and enforcement of OAC 4729:9-1-01.1.

Upon final filing of OAC 4729:9-1-01.1, the Board issued updated consumer and retailer guidance to assist with the enforcement of the rule. The retailer guidance was initially devised to incorporate both the newly adopted rule and current legal interpretation from the [Ohio Department of Agriculture](#) (ODA). This guidance was intended as an explanation of the ODA's interpretation of what is permissible under Chapter 3715. of the Revised Code and the Board's rule, and that there needs to be compliance with both.

On May 28, 2026, the Board voluntarily entered into a settlement agreement to adjust the consumer and retailer [guidance](#) to further clarify that plant material in its natural vegetative state is not considered a Schedule I controlled substance under OAC 4729:9-1-01.1 regardless of how it is packaged or sold. This means that ground plant material commonly used in teas and sold in capsules is not impacted by the rule.

As such, the [revised guidance](#) no longer seeks to incorporate ODA's current guidance and, instead, focuses on which mitragynine-related compounds are no longer permitted under the rule. Please be advised that the Board has not taken any enforcement action related to the previous guidance.

The Board is currently subject to an ongoing lawsuit regarding OAC 4729:9-1-01.1 as to whether natural plant material that is incorporated into a beverage meets the exemption for

natural vegetative material contained in the rule. There is currently a temporary restraining order in effect that enjoins the Board from treating products – including beverages – made from vegetative kratom as Schedule I controlled substances. A hearing on the preliminary injunction in that same lawsuit was held on May 29, 2026, but the matter has not yet been briefed, nor has the court issued a decision on the injunction.

Regarding OAC 4729:9-1-01.2, the rule that would place natural kratom products into Schedule I. The Board recently met with majority caucus staff and JCARR staff to discuss the rule and potential legislative action. It has been communicated to us during these discussions that the legislature strongly prefers to address this via legislation. Considering this, the Board will be reviewing the rule at a future meeting to determine next steps.

Thank you for the opportunity to provide a brief opening statement. I am happy to try and answer any questions that you may have.



6/15/2026

The Honorable Theresa Gavarone
1 Capitol Square, First Floor
Columbus, OH 43215

The Honorable Jamie Callender
77 South High Street, 13th Floor
Columbus, OH 43215

Dear Co-Chairs Callender and Gavarone,

This letter is intended to update the members of the Joint Committee on Agency Rule Review (JCARR) on the Ohio Board of Pharmacy's (Board) efforts to schedule mitragynine and mitragynine-related compounds as well as its interpretation and enforcement of OAC [4729:9-1-01.1](#).

Status of Mitragynine Scheduling

On December 11, 2025, Governor DeWine [asked the Board](#) to consider the scheduling of both synthetic kratom (mitragynine-related compounds that include 7-hydroxymitragynine and mitragynine pseudoindoxyl, among others) and natural kratom (plant material containing mitragynine).

As part of this request, the Governor called upon the Board to immediately designate all mitragynine-related compounds derived from the active ingredient in kratom as Schedule I controlled substances through emergency rule. The Governor also asked the Board of Pharmacy to pursue rules via the regular rulemaking process for scheduling natural kratom.

On December 12, 2025, the Board adopted emergency rule OAC 4729:9-1-01.1, which placed all mitragynine-related compounds into Schedule I. On January 6, 2026, the Board voted to begin the traditional rulemaking process to permanently classify all mitragynine-related compounds as Schedule I controlled substances. This rule went into effect on May 19, 2026, and the rationale for this decision can be found in the Board's [eight-factor analysis](#).

Also on January 6, 2026, the Board voted to begin the process of banning all remaining natural products, through OAC 4729:9-1-01.2, by categorizing mitragynine as a Schedule I controlled substance. This rule received more than [1,600 individual and organizational comments](#) as part of the CSI process compared to the [107 comments](#) received on the mitragynine-related compounds rule (OAC 4729:9-1-01.1). As a result of this influx of comments and the need to prioritize the emergency rule to prevent it from lapsing, the Board spent several months reviewing and formulating a response to these comments. On June 8, 2026, the Board issued a response to the comments received during the CSI process. This response can be found as Appendix C to the Board's [eight-factor analysis](#) for the scheduling of mitragynine.

Interpretation and Enforcement of OAC 4729:9-1-01.1

Upon final filing of OAC 4729:9-1-01.1, the Board issued updated consumer and retailer guidance to assist with the enforcement of the rule. The retailer guidance was initially devised to provide a comprehensive overview of the sale of kratom products that incorporated both the newly adopted rule and current legal interpretation from the [Ohio Department of Agriculture](#) (ODA). This guidance was intended as an explanation of the ODA's interpretation of what is permissible under Chapter 3715. of the Revised Code and the Board's rule, and that there needs to be compliance with both.

On May 28, 2026, the Board entered into a settlement agreement to adjust the consumer and retailer [guidance](#) to further clarify that plant material in its natural vegetative state is not considered a Schedule I controlled substance under OAC 4729:9-1-01.1 regardless of how it is packaged or sold. As such, the [revised guidance](#) no longer seeks to enforce ODA's current legal interpretation and, instead, focuses on which mitragynine-related compounds are no longer permitted under the rule. Please be advised that the Board has not taken any enforcement action related to the previous guidance.

The Board is currently subject to an ongoing lawsuit regarding OAC 4729:9-1-01.1 as to whether natural plant material that is incorporated into a beverage meets the exemption for natural vegetative material contained in the rule. There is currently a temporary restraining order in effect that enjoins the Board from treating products – including beverages – made from vegetative kratom as Schedule I controlled substances. A hearing on the preliminary injunction in that same lawsuit was held on May 29, 2026, but the matter has not yet been briefed, nor has the court issued a decision on the injunction.

Thank you for the opportunity to provide an update regarding the Ohio Board of Pharmacy's efforts to schedule natural and synthetic kratom. Should you have any further questions or need additional information, please do not hesitate to reach out to the Board's Director of Policy and Communications, Cameron McNamee (cameron.mcnamee@pharmacy.ohio.gov | 614-466-7322).

Sincerely,

A handwritten signature in black ink that reads "Steven W. Schierholt". The signature is written in a cursive, flowing style.

Steven W. Schierholt
Executive Director
Ohio Board of Pharmacy

CC: Members of JCARR, House/Senate Caucus, JCARR Executive Director



Consumer and Retailer Notice: Sale and Possession of Kratom in Ohio

Date Issued: 5/14/2026

Date Effective: 5/19/2026

This document replaces all previous guidance issued by the Ohio Board of Pharmacy on the enforcement of OAC 4729:9-1-01.1 and the manufacture, possession, and sale of kratom in Ohio.

DISCLAIMER: *The information contained in this notice does not, and is not intended to, constitute legal advice; instead, all information provided is for general informational purposes only. Information contained in this notice may not constitute the most up-to-date legal or other information. The Ohio Board of Pharmacy is not able to provide any additional guidance beyond what is provided in this notice. For additional questions, readers should contact an attorney to obtain advice with respect to the information provided in this notice.*

Frequently Asked Questions

Q1) What is Kratom?

Kratom is a tropical tree in the coffee family (*mitragyna speciosa*) that is native to Southeast Asia. The kratom leaves are the part of the tree that are used and sold either fresh or dried. When dried, the kratom leaves are typically sold in the form of green powder. Dried leaves are also used to make tablets, capsules, extracts and gum as well as other edible products.

Q2) What forms of kratom are legal to sell in Ohio?

The following table provides an overview of what is legal to sell or possess in the state of Ohio:

Form of Kratom	Legal to Sell or Possess?	Legal Citation
Natural kratom (<i>mitragyna speciosa</i> or <i>mitragynine</i>) in its vegetation form (e.g., dried leaf or powdered). <u>Natural kratom is not permitted to be processed into, or marketed as, a food, drug, or dietary supplement</u> (e.g., incorporated into a food or represented as any edible product).	Yes.	ORC <u>3715.55, 3715.59</u> OAC <u>4729:9-1-01.1</u> (effective May 19, 2026)
Natural kratom (<i>mitragyna speciosa</i> or <i>mitragynine</i>) in its vegetation form (e.g., dried leaf or powdered) in capsule form.*	No. Natural kratom is not permitted to be processed into, or marketed as, a food, drug, or dietary supplement (e.g., incorporated into a food or represented as any edible product).	ORC <u>3715.55, 3715.59</u> OAC <u>4729:9-1-01.1</u> (effective May 19, 2026)*
Natural kratom (<i>mitragynina speciosa</i> or <i>mitragynine</i>) in its vegetation form (e.g., dried leaf or powdered) in liquid or drink form.*	No. Natural kratom is not permitted to be processed into, or marketed as, a food, drug, or dietary supplement (e.g., incorporated into a food	ORC <u>3715.55, 3715.59</u> OAC <u>4729:9-1-01.1</u> (effective May 19, 2026)*

	or represented as any edible product).	
Kratom-related (i.e., mitragynine-related) compounds, including, but not limited, to: ▪ 7-hydroxymitragynine (sometimes referred to as 7-OH); ▪ Mitragynine pseudoindoxyl; ▪ Dihydro-7-hydroxy mitragynine; and ▪ 7-acetoxymitragynine.	No. These compounds are prohibited under OAC <u>4729:9-1-01.1</u> .	ORC <u>3715.55, 3715.59</u> OAC <u>4729:9-1-01.1</u> (emergency rule: effective December 12, 2025 / permanent rule: effective May 19, 2026)

IMPORTANT:** OAC 4729:9-1-01.1 exempts mitragynine (kratom) in vegetation form, including natural kratom leaf and ground natural kratom leaf, produced and sold in accordance with Ohio's food safety laws (ORC 3715.). ***Products that are not vegetation and that do not comply with ORC 3715. are Schedule I controlled substances effective May 19, 2026. For more information on kratom products and compliance with Ohio's food safety laws, visit: <https://agri.ohio.gov/divisions/food-safety/resources/Kratom>.

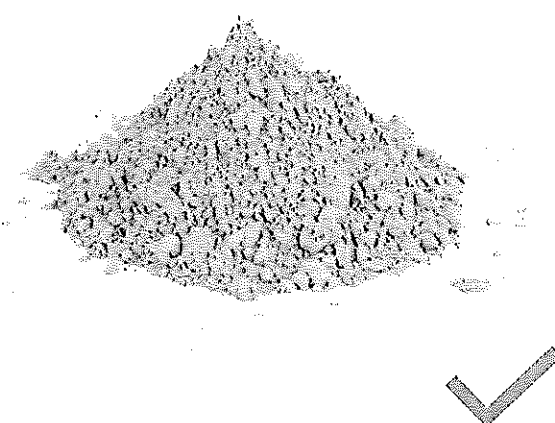
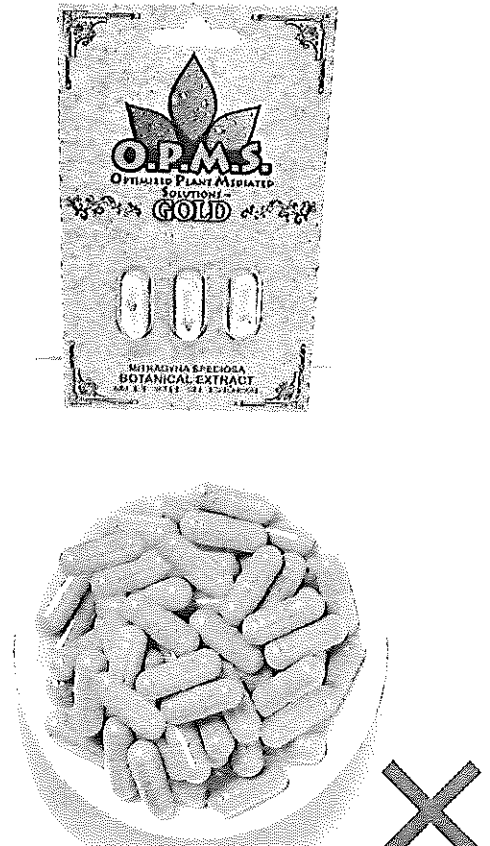
Q3) Does the rule impact kratom in its natural vegetation state that contains trace amounts of 7-hydroxymitragynine (7-OH)?

Kratom that is sold in its natural vegetation state that contains trace amounts of 7-OH may still be legally sold in Ohio. The Board's rule specifically exempts natural kratom in vegetation form that is compliant with ORC 3715. Under existing Ohio law and consistent with ODA's legal authority, natural kratom may only be sold in its whole or dried leaf form or powdered form **as long as** it is not marketed as a food, drug, or dietary supplement. For example, it cannot be labeled with instructions on how to make it into a tea, nor can it be encapsulated (which would indicate that it is intended to take by mouth).

For more information on the sale of kratom in its whole or dried leaf form or powdered form, see the guidance from the Ohio Department of Agriculture: <https://agri.ohio.gov/divisions/food-safety/resources/Kratom>.

Q4) How do I identify kratom products banned under this rule?

Retailers and consumers should look for any products that do not meet the requirements listed in Q2 of this document. For reference, the following are some examples:

NOT BANNED Natural kratom (<i>mitragyna speciosa</i> or <i>mitragynine</i>) in its vegetation form (e.g., dried leaf or powdered). Because the FDA does not recognize kratom as a “Generally Recognized As Safe” (GRAS) ingredient, the packaging, labeling, and advertising cannot have any instructions, dosages, nutritional fact panel or other representations that this is edible or can be ingested as a food, drink, or supplement.	 A pile of fine, light-colored powder, likely kratom, is shown on a white surface. A large, dark checkmark icon is positioned to the right of the powder pile, indicating that this form of kratom is not banned.
BANNED Natural kratom (<i>mitragyna speciosa</i> or <i>mitragynine</i>) in its vegetation form (e.g., dried leaf or powdered) in capsule form.	 The image shows two examples of banned kratom products. The top example is a box of 'O.P.M.S. Gold' capsules, which are labeled as 'OPTIMIZED PLANT-MEDIATED SOLUTION' and 'MITRAGYNA SPECIOSA BOTANICAL EXTRACT'. The bottom example is a white bowl filled with numerous light-colored, oblong capsules. A large, dark 'X' icon is positioned to the right of the bowl, indicating that these products are banned.

BANNED

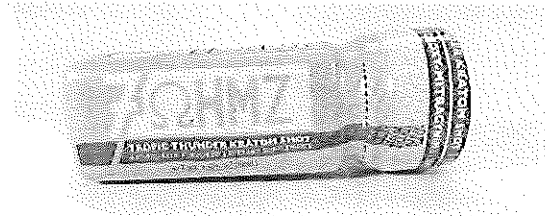
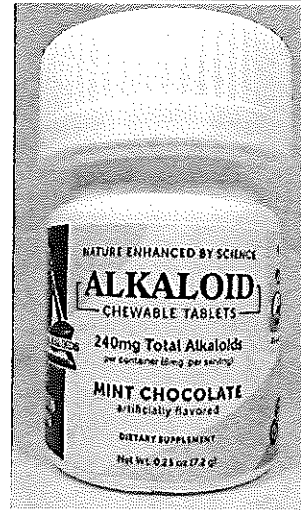
Natural kratom (*Mitragyna speciosa* or *mitragynine*) in its vegetation form (e.g., dried leaf or powdered) in liquid or drink form.



BANNED

Kratom-related (i.e., mitragynine-related) compounds including, but not limited, to:

- 7-hydroxymitragynine (sometimes referred to as 7-OH);
- Mitragynine pseudoindoxyl;
- Dihydro-7-hydroxy mitragynine; and
- 7-acetoxymitragynine.



Q5) Are there any additional requirements for the sale of natural kratom in vegetation form?

Those engaged in the sale of natural kratom in vegetation form are strongly encouraged to contact the Ohio Department of Agriculture's Division of Food Safety (614-728-6250 / foodsafety@agri.ohio.gov) with any questions.

Q6) What do I do if I discover illegal kratom products on my shelves or in my possession?

These products should be disposed of immediately.

REMINDER: OAC 4729:9-1-01.1 exempts mitragynine (kratom) in vegetation form, including natural kratom leaf and ground natural kratom leaf, produced and sold in accordance with Ohio's food safety laws (ORC 3715.).

Products that are not vegetation and that do not comply with ORC 3715. are Schedule I controlled substances effective May 19, 2026.

For more information on kratom products and compliance with Ohio's food safety laws, visit: <https://agri.ohio.gov/divisions/food-safety/resources/Kratom>.



Consumer and Retailer Notice: Sale and Possession of Kratom in Ohio

Date Revised: 5/28/2026

This document replaces all previous guidance issued by the Ohio Board of Pharmacy on the enforcement of OAC [4729:9-1-01.1](#) and the manufacture, possession, and sale of kratom in Ohio.

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Frequently Asked Questions

Q1) What is Kratom?

Kratom is a tropical tree in the coffee family (*mitragyna speciosa*) that is native to Southeast Asia. The kratom leaves are the part of the tree that are used and sold either fresh or dried. When dried, the kratom leaves are typically sold in the form of green powder. Dried leaves are also used to make tablets, capsules, extracts and gum as well as other edible products.

Q2) What forms of kratom are legal to sell in Ohio?

The following table provides an overview of what is legal to sell or possess in the state of Ohio under OAC 4729:9-1-01.1:

Form of Kratom	Legal to Sell or Possess?	Legal Citation
Natural kratom (<i>mitragyna speciosa</i>) in its vegetation form (e.g., whole or ground dried leaf).*	Yes.	OAC 4729:9-1-01.1 (effective May 19, 2026)
Kratom-related (i.e., mitragynine-related) compounds, including, but not limited, to: ▪ 7-hydroxymitragynine (sometimes referred to as 7-OH); ▪ Mitragynine pseudoindoxyl; ▪ Dihydro-7-hydroxy mitragynine; and ▪ 7-acetoxymitragynine.	No. These compounds are prohibited under OAC 4729:9-1-01.1 .	OAC 4729:9-1-01.1 (emergency rule: effective December 12, 2025 / permanent rule: effective May 19, 2026)

Mitragynine in vegetative form, including natural kratom leaf and ground natural kratom leaf, is not a Schedule I controlled substance under this rule. All entities that possess, manufacture, market or sell kratom or kratom products must comply with R.C. Chapter 3715, the Pure Food and Drug Act, regardless of whether the kratom product is a controlled substance or not.

The rule references Ohio's Food Safety Laws (ORC [3715.](#)), which have their own legal requirements for kratom products separate from the rule. For more information on kratom products and compliance with Ohio's food safety laws, visit:

<https://agri.ohio.gov/divisions/food-safety/resources/Kratom>.

Q3) Does the rule impact kratom in its natural vegetation state that contains trace amounts of 7-hydroxymitragynine (7-OH)?

Kratom that is sold in its natural vegetation state that contains trace amounts of 7-OH may still be legally sold in Ohio. The Board's rule specifically exempts natural kratom in vegetation form.

Q4) How do I identify kratom products banned under this rule?

Retailers and consumers should look for any products that do not meet the requirements listed in [Q2 of this document](#).

Q5) Are there any additional requirements for the sale of natural kratom in vegetation form?

Those engaged in the sale of natural kratom in vegetation form are strongly encouraged to contact the Ohio Department of Agriculture's Division of Food Safety (614-728-6250 / foodsafety@agri.ohio.gov) with any questions.

According to the Ohio Department of Agriculture, all entities that possess, manufacture, market, or sell kratom or kratom products must comply with R.C. Chapter 3715, the Pure Food and Drug Act. Retailers should also consult the Ohio Department of Agriculture's guidance on kratom products and compliance with Ohio's food safety laws, by visiting:

<https://agri.ohio.gov/divisions/food-safety/resources/Kratom>.

Q6) What do I do if I discover illegal kratom products on my shelves or in my possession?

These products should be disposed of immediately.