HB 2408: Scheduling of Mitragynine Synthetic Derivatives

Testimony Regarding House Bill 2408 (HB 2408)
Jacqualine Gervais, DNP, PMHNP, CARN-AP
CEO and Founder, The Ridge Treatment & Reentry Center

Thank you for the opportunity to provide a clinical perspective on HB 2408.

I am a psychiatric and addiction nurse practitioner and founder of The Ridge Treatment & Reentry Center, where we provide walk-in psychiatric and addiction care as well as residential and outpatient substance use treatment.

I am generally supportive of HB 2408 and its effort to remove synthetic, enhanced, and high-potency 7-hydroxymitragynine products from the commercial market.

I particularly appreciate that the bill recognizes that the distinction between “natural” and “synthetic” is not as simple as it sounds. A product may originate from a kratom leaf but subsequently be extracted, concentrated, chemically altered, or otherwise processed before reaching the consumer.

HB 2408 looks beyond where a product originated and addresses what is actually in the finished product, including extracts, concentrates, processed edibles, pressed pills, and products that have undergone chemical or thermal processes resulting in elevated 7-OH. The question is not simply where a product started. The question is what is actually in the product a consumer ultimately takes.

At The Ridge, we are seeing tolerance, escalating use, physical dependence, and withdrawal associated with kratom and 7-OH products. I have treated withdrawal from virtually every substance we encounter in addiction medicine, and kratom withdrawal can be among the more complicated withdrawals we manage. Unfortunately, there is very little established clinical guidance for treating it. We do not have a standardized treatment protocol specifically for kratom or 7-OH withdrawal, and many healthcare providers have little experience recognizing or managing it.

That becomes particularly important when we consider making these products Schedule I effective immediately. If North Dakota is going to remove these products from the market immediately, I strongly believe a public-health response needs to occur at the same time.

There are already North Dakotans using these products every day who are physically dependent on them. Changing the legal status of the product does not eliminate that dependence.

Some of those individuals are going to experience withdrawal and seek help. Many will not know where to go. Unfortunately, many of the healthcare providers they encounter may not know what to do either. That concern is particularly significant in rural North Dakota, where access to addiction-trained clinicians is limited and the first point of contact may be a primary care clinic, critical access hospital, emergency department, pharmacist, or behavioral health provider.

For that reason, I would strongly recommend adding a section to HB 2408 directing the Department of Health and Human Services to develop an immediate statewide response.

At minimum, I would ask HHS to:

- Issue a provider advisory regarding kratom and 7-OH dependence and withdrawal, including assessment considerations and available treatment approaches;
- Develop and distribute clinical and referral resources to primary care, emergency departments, behavioral health providers, pharmacists, addiction-treatment programs, and critical access hospitals;
- Provide consumer education explaining dependence and withdrawal, when to seek medical attention, and where help is available;
- Establish or identify a statewide treatment-navigation resource for people seeking help with kratom or 7-OH dependence;
- Conduct specific outreach to rural healthcare providers and hospitals; and
- Monitor available indicators such as emergency department presentations, poison center contacts, and treatment utilization following implementation.

These resources should be available when HB 2408 takes effect, not weeks or months afterward. If the regulatory response is immediate, the public-health response needs to be immediate as well.

I also encourage the Legislature to reconsider the escalating criminal penalties in HB 2408 for the people using these products. I strongly support holding manufacturers and retailers accountable for continuing to sell prohibited products.

I am less comfortable with a framework in which a person who has developed a substance use disorder can progress from an infraction, to a misdemeanor, and ultimately to a felony for repeatedly possessing the substance. Our response to the person profiting from selling a prohibited product should be different from our response to the person who has become dependent on it. That individual needs a pathway to treatment.

I support the intent of HB 2408. I believe synthetic, enhanced, manipulated, and high-potency 7-OH products present risks that justify removing them from the commercial market. But I would strongly encourage the Legislature to pair scheduling with a public-health response written directly into HB 2408.

If we change the legal status of these products overnight, we have an obligation to anticipate what that means for people who are already physically dependent on them.

Direct HHS to educate providers. Give rural clinicians practical guidance. Tell consumers what withdrawal can look like and where they can get help. Create a clear pathway to treatment. And collect data so that we understand the consequences of the policy after it takes effect.

At the same time, I would encourage a treatment-focused rather than progressively punitive response to the individuals who have become dependent.

I support getting these products off retail shelves. But when we do that, people who are already dependent need to know where to go, and the healthcare provider they encounter needs to know how to help them.

Those efforts should begin on the same day HB 2408 takes effect.

Thank you for the opportunity to provide a clinical perspective on HB 2408.