

**NYSACHO Emerging Issues Committee Meeting
September 16, 2025: 2:00pm – 3:00pm**

Attendees (NYSACHO): Sarah Ravenhall, Laura Gibson, Danielle Pellino, Robert Viets, Sarah Montuori

Attendees (LHDs): Keith Brown (Schenectady), Livia Santiago-Rosado (Dutchess), Tricia Bulatao (Albany), Kristen Navarette (Albany), Kevin Watkins, MD (Cattaraugus), Cassandra Archer (Cayuga), Katee Padbury (Cortland), Missi Babcock (Cortland), Nicki Anjeski (Cortland), Linda Beers (Essex), Hannah Busman (Franklin), Kathleen King (Fulton), Paul Pettit (Genesee/ Orleans), Fauzia Khan (Niagara), Heidi Bond (Otsego), Kathleen Percacciolo (Putnam), Shanna Siegel (Putnam), Kim Abate (Seneca), Matthew Marmor (Steuben), Gregson Pigott (Suffolk), Dan Durkee (Warren), Pat Belden (Warren), Tina McDougall (Washington), Alyssa Arlen (Washington), Dr. Sherlita Amler (Westchester)

Attendees (Guests): Amy Kellogg (Harter Secrest & Emery)

Agenda Item	Discussion
Meeting Discussion	<p><u>1) Kratom legislation</u></p> <p>What changed since August:</p> <ul style="list-style-type: none"> • Committee previously considered asking membership to vote on a veto recommendation for a bill placing kratom under Article 13-F (tobacco law) and prohibiting sales under 21. • New context: a second, paired kratom bill surfaced; recent in-state deaths raised visibility; conversations with Dr. McDonald; and review of NY’s General Business Law (GBL) model used for under-18 dietary supplements. <p>Amy Kellogg’s recommendation (adopted by the group):</p> <ul style="list-style-type: none"> • Do not start with a veto ask. Instead, seek to move kratom out of the tobacco statute and regulate via General Business Law, mirroring the dietary-supplement under-18 model. • Pair with Sen. Skoufis’ bill that would: <ul style="list-style-type: none"> ○ Require warning signage/disclosures for retailers, ○ Ban synthetic kratom (allow only “natural” kratom), ○ Set clearer seller obligations. • Rationale: <ul style="list-style-type: none"> ○ Keeps enforcement off local health departments (GBL → AG/police), avoiding an unfunded mandate and unworkable field inspections. ○ Acknowledge public health concerns while proposing a more enforceable framework. ○ Stakeholder alignment: Global Kratom Association supports the “natural only” approach and ban on synthetic products. <p>Additional points raised:</p> <ul style="list-style-type: none"> • Age threshold: Current draft modeled on under-18 supplement rules; some interest in considering 21. • Concern that “under-18” limits can imply safety for adults; signage/education in Skoufis bill helps address that.



- Enforcement question: Under GBL, local HDs are not the default enforcers; under tobacco law they likely would be.
- Process improvement: Be more proactive with legislators, invite electeds to LHD events, and route new issues to NYSACHO legislative strategy earlier.

Outcome / Next steps:

- **Committee agrees to bring forward to membership a vote to:** Amend legislation that was passed by both houses regarding regulating Kratom to make sales under 21 years of age illegal and placing enforcement under state business law vs. public health law.
- Meeting with Dr. McDonald scheduled (next week or the week after). Amy/Sarah will report back on receptivity and any changes.
- committee agrees to bring forward to membership a vote to:

2) Nitrous oxide – Warren County case study & broader discussion

Report from Warren County:

- Local fatality reportedly linked to nitrous use; widespread availability in vape shops/online; schools finding canisters near campuses.
- Enforcement vacuum: State/locals unclear who enforces existing age-21 purchase limits for culinary canisters; no active surveillance according to DOH's Bureau of Narcotics Enforcement; law on the books but not enforced.
- Complicating factor: Nitrous oxide is an FDA-approved food additive, not a controlled narcotic.
- Ideas heard locally: explore licensing purchasers for legitimate culinary/medical use; note Louisiana example restricting flavored products.

Member reactions:

- Anecdotes of public use near shops; practical difficulty of police engagement for transient, short-acting use.
- Dutchess County: National deaths (~150 in 2023) suggest rarity; bandwidth triage matters; beware "whack-a-mole" on every substance with licit uses.
- NYSACHO: Keep as a standing agenda item; consider licensing or broader enforcement funding only if it doesn't fall on LHDs and aligns with budget opportunities.

Outcome / Next steps:

- Standing agenda item to monitor nitrous and other emerging retail substances; share local intel with NYSACHO promptly.

3) Cannabis – new OCM proposed regs (packaging, labeling, marketing, ads)

****Public comment open until: October 10.**

Highlights relevant to public health:

- Youth appeal: Some loosening on fonts/colors/product depictions and discount/loyalty programs, but explicit ban on mascots and audio targeting under-21; youth-attractive packaging/ads still prohibited.
- Warnings/labeling: Updated rotating warnings; add NY HOPE line; clearer THC % labeling; removing terpene profiles and use-by dates from packaging.
- Packaging safety: Innermost layer must be child-resistant and remain visible after opening.



	<ul style="list-style-type: none">Advertising: Digital ads restricted to 21+ audiences; license numbers required on social; no medical/wellness claims; billboards/public property ads remain banned. <p>Committee temperature: No strong reactions; no immediate comment letter planned unless members surface concerns before 10/10.</p> <p>4) Federal updates</p> <ul style="list-style-type: none">NACCHO “News from Washington” shared (no additions from NYSACHO).SAMHSA executive order/letter effect: Harm-reduction activities deemed unallowable with SAMHSA funds (e.g., syringes/needles, pipes, sterile water/saline/ascorbic acid when intended to facilitate drug use).<ul style="list-style-type: none">Impact noted: Some LHDs couldn’t attend the recent harm reduction symposium using SAMHSA dollars; at least one SAMHSA program officer reportedly said “harm reduction” cannot be used as a program term currently.NYS DOH syringe exchange programs unaffected (not SAMHSA-funded).Watchpoint: Possible implications via OASAS pass-throughs; committee will inquire.Advice: Consult county attorneys; keep NYSACHO informed about any SAMHSA-related constraints experienced by LHDs or partners. <p>Process/strategy takeaways</p> <ul style="list-style-type: none">Proactive engagement: Invite state/local electeds to LDH/NYSACHO events; continue Lobby Day relationships; feed local issue signals to NYSACHO early.Internal routing: Strengthen policy review flow so committee positions get paired with lobby strategy before advancing to membership votes. <p>Agreed actions & owners</p> <ul style="list-style-type: none">Amy/NYSACHO: Meet with Dr. McDonald to advocate GBL approach + Skoufis pairing, explore age threshold and enforcement structure; report back next meeting.All LHDs:<ul style="list-style-type: none">Share local intel on nitrous (and other emerging retail substances) with NYSACHO; use committee as clearinghouse.Flag any SAMHSA/OASAS funding issues tied to harm-reduction language/supplies.NYSACHO staff and committee co-chairs:<ul style="list-style-type: none">Keep nitrous/emerging substances as standing agenda item.Explore OASAS implications of SAMHSA guidance; update committee.Continue work on policy review + lobbying integration.Bring forward to membership on 9/18/25, a vote on the committee recommendation to: Amend legislation that was passed by both houses regarding regulating Kratom to make sales under 21 years of age illegal and placing enforcement under state business law vs. public health law.
Adjournment	The next Emerging Issues Committee meeting is scheduled for October 20, 2025 at 3pm.

STATE OF NEW YORK

2340--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 16, 2025

Introduced by M. of A. McDONALD, STECK, WOERNER, WALSH, RA,
SANTABARBARA, GRIFFIN, COLTON, SHIMSKY, BLANKENBUSH,
DURSO, HAWLEY,
McDONOUGH, MANKTELOW, BUTTENSCHON, GLICK, HEVESI,
LUNSFORD, RAMOS,
GIGLIO, K. BROWN, DeSTEFANO, NORBER, GALLAHAN -- read once and
referred to the Committee on Health -- committee discharged, bill
amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the ~~public health law~~ general business law, in relation to the
prohibition of the sale of kratom to individuals under the age of twenty-one

The People of the State of New York, represented in Senate and Assembly, do
enact as follows:

Section 1. Article 26 of the general business law is amended to add new section 391-
o.

~~The article heading of article 13-F of the public health law, as amended by chapter
448 of the laws of 2012, is amended to read as follows:~~

- ~~—REGULATION OF TOBACCO PRODUCTS, HERBAL CIGARETTES,~~
- ~~—KRATOM AND SMOKING PARAPHERNALIA; DISTRIBUTION~~
- ~~—TO MINORS~~

Commented [ACA1]: Global Comment: Much of my changes are to make the bill align more closely with General Business Law § 391-oo, which prohibits the sale of diet pills and supplements to those under 18 years of age.

—§ 2. Section 1399-aa of the public health law is amended by adding a new subdivision 19 to read as follows:

—19. "Kratom" means any part of the plant *Mitragyna speciosa*, whether growing or not, and any compound, manufacture, salt, derivative, mixture, or preparation of such plant.

—§ 3. Article 13-F of the public health law is amended by adding a new section 1399-~~mmm~~ to read as follows:

—§ 1399-~~mmm~~391-o. Sale of kratom prohibited. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Kratom" means any part of the plant *Mitragyna speciosa*, whether growing or not, and any compound, manufacture, salt, derivative, mixture, or preparation of such plant.

(b) "Retail establishment" means any vendor that, in the regular course of business, sells kratom at retail directly to the public, including, but not limited to, pharmacies, grocery stores, other retail stores, and vendors that accept orders placed by mail, telephone, electronic mail, internet website, online catalog, or software application.

(c) "Delivery sale" means any sale of kratom to a consumer if:

(i) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, mail, or the internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(ii) the kratom is delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the kratom.

(e) "Delivery seller" means a vendor, including online retailers, who makes delivery sales of kratom. Such vendors shall include persons who accept orders placed by mail, telephone, electronic mail, internet website, online catalog, or software application.

12. (a) No person, firm, corporation, partnership, association, limited liability company, or other entity ~~shall knowingly sell~~ or give away, as either a retail or wholesale promotion, ~~or provide kratom~~ within this state ~~to any other person~~

under twenty-one years of age. For the purposes of this section, proof of legal age shall mean (i) a valid driver's license or non-driver's identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States, or (iv) any other photographic identification card issued by a governmental entity or educational institution indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of kratom to an individual under twenty-one years of age.

Any person who violates the provisions of this subdivision shall be subject to a civil penalty of not more than five hundred dollars. (b) Retail establishments shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF KRATOM TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW". Such sign shall be printed on a white card in red letters at least one-half inch in height.

3— 2. (a) Any person operating a place of business wherein kratom is sold or offered for sale is prohibited from selling such kratom to individuals under twenty-one years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF KRATOM TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW". Such sign shall be printed on a white card in red letters at least one-half inch in height.

— (b) Sales of kratom shall be made only to an individual who demonstrates, through (i) a valid driver's license or non driver's identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States, or (iv) any other photographic identification card issued by a governmental entity or educational institution indicating that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in

Commented [ACA2]: There is no signage requirement in GBL § 391-oo, so I put it here.

~~any proceeding alleging the sale of kratom to an individual under twenty-one years of age.~~

~~—(e)(i) Any person operating a place of business wherein kratom is sold or offered for sale may perform a transaction scan as a precondition for such purchases.~~

~~—(ii)b) In any instance where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card, or if the transaction scan indicates that the information is false or fraudulent, the attempted transaction shall be denied.~~

~~—(iii)c) In any proceeding pursuant to ~~section thirteen hundred ninety-nine ee of this article~~section, it shall be an affirmative defense that such person had produced a driver's license or non-driver identification card apparently issued by a governmental entity, successfully completed that transaction scan, and that the kratom has been sold, delivered or given to such person in reasonable reliance upon such identification and transaction scan. In evaluating the applicability of such affirmative defense the commissioner shall take into consideration any written policy adopted and implemented by the seller to effectuate the provisions of this ~~article~~section. Use of a transaction scan shall not excuse any person operating a ~~place of business~~retail establishment wherein kratom is sold, or the agent or employee of such person, from the exercise of reasonable diligence otherwise required by this article. Notwithstanding the above provisions, any such affirmative defense shall not be applicable in any civil or criminal proceeding, or in any other forum.~~

~~—(d) A ~~retail establishment- business~~ or agent or employee of such ~~business~~ retail establishment shall only use a device capable of deciphering any electronically readable format, and shall only use the information recorded and maintained through the use of such devices, for the purposes contained in ~~paragraph (e) of this subdivision~~section. No ~~retail establishment- business~~ or agent or employee of such ~~business-retail establishment~~ shall resell or disseminate the information recorded during such a scan to any third person. Such prohibited resale or dissemination includes but is not limited to any advertising, marketing or promotional activities. Notwithstanding the restrictions imposed by this subdivision, such records may be released pursuant to a court ordered subpoena or pursuant to any other statute that specifically authorizes the release of such information. Each violation of this paragraph shall be punishable by a civil penalty of not more than one thousand dollars.~~

~~—(e) A business or agent or employee of such business may electronically or mechanically record and maintain only the information from a transaction scan necessary to effectuate this section. Such information shall be limited to the following: (i) name, (ii) date of birth, (iii) driver's license or non-driver identification number, and (iv) expiration date.~~

~~—(f) As used in this subdivision, "a device capable of deciphering any electronically readable format", "card holder" and "transaction scan" shall have the same meanings as are ascribed to such terms by section thirteen hundred ninety-nine ee of this article.4. Notwithstanding subdivision two of this section, a delivery seller, including an online retailer, who mails or ships kratom to consumers:~~

~~(a) shall not sell, deliver, or cause to be delivered any kratom to a person under twenty-one years of age; and~~

~~(b) shall use a method of mailing or shipping:~~

~~(i) that requires the purchaser placing the delivery sale order, or an adult who is at least twenty-one years of age to sign to accept delivery of the shipping container at the delivery address; and~~

~~(ii) that requires the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least twenty-one years of age.~~

~~5. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York, to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violations, without requiring proof that any person has, in fact, been injured or damaged thereby. Whenever a court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than five hundred dollars.~~

~~—§ 4. The commissioner of health shall conduct a study relating to kratom. The study shall include but not be limited to the potential health risks, benefits and effects of kratom and shall review all available data relating to such. The commissioner shall publish and submit a report of such findings and recommendations to the governor, the speaker of the assembly and the temporary president of the senate on or before one year from the effective date of this act.~~

~~—§ 52. This act shall take effect immediately on the one hundred eightieth day after it shall have become law.~~