

By the Committee on Health Policy; and Senator Grimsley

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1                                   A bill to be entitled  
2       An act relating to the ordering of medication;  
3       amending s. 212.08, F.S.; providing that an order for  
4       administration is included in the medical exemption  
5       from sales tax; revising the term "prescription" to  
6       exclude an order for administration; amending ss.  
7       458.347 and 459.022, F.S.; revising the authority of a  
8       licensed physician assistant to order medication under  
9       the direction of a supervisory physician for a  
10      specified patient; amending s. 464.012, F.S.;  
11      authorizing an advanced registered nurse practitioner  
12      to order medication for administration to a specified  
13      patient; amending s. 465.003, F.S.; revising the term  
14      "prescription" to exclude an order for drugs or  
15      medicinal supplies by a licensed practitioner that is  
16      dispensed for certain administration; amending s.  
17      893.02, F.S.; revising the term "administer" to  
18      include the term "administration"; revising the term  
19      "prescription" to exclude an order for drugs or  
20      medicinal supplies by a licensed practitioner that is  
21      dispensed for certain administration; amending s.  
22      893.04, F.S.; conforming provisions to changes made by  
23      act; amending s. 893.05, F.S.; authorizing a licensed  
24      practitioner to authorize a licensed physician  
25      assistant or advanced registered nurse practitioner to  
26      order controlled substances for a specified patient  
27      under certain circumstances; reenacting ss.  
28      400.462(26), 401.445(1), 409.906(18), and 766.103(3),  
29      F.S., to incorporate the amendments made to ss.

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30 458.347 and 459.022, F.S., in references thereto;  
31 reenacting ss. 401.445(1) and 766.103(3), F.S., to  
32 incorporate the amendment made to s. 464.012, F.S., in  
33 references thereto; reenacting ss. 409.9201(1)(a),  
34 458.331(1)(pp), 459.015(1)(rr), 465.014(1),  
35 465.015(2)(c), 465.016(1)(s), 465.022(5)(j),  
36 465.023(1)(h), 465.1901, 499.003(43), and 831.30(1),  
37 F.S., to incorporate the amendment made to s. 465.003,  
38 F.S., in references thereto; reenacting ss.  
39 112.0455(5)(i), 381.986(7)(b), 440.102(1)(l),  
40 458.331(1)(pp), 459.015(1)(rr), 465.015(3),  
41 465.016(1)(s), 465.022(5)(j), 465.023(1)(h),  
42 499.0121(14), 768.36(1)(b), 810.02(3)(f),  
43 812.014(2)(c), 856.015(1)(c), 944.47(1)(a), 951.22(1),  
44 985.711(1)(a), 1003.57(1)(i), and 1006.09(8), F.S., to  
45 incorporate the amendment made to s. 893.02, F.S., in  
46 references thereto; reenacting s. 893.0551(3)(e),  
47 F.S., to incorporate the amendment made to s. 893.04,  
48 F.S., in a reference thereto; reenacting s.  
49 893.0551(3)(d), F.S., to incorporate the amendment  
50 made to s. 893.05, F.S., in a reference thereto;  
51 providing an effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Paragraphs (a) and (b) of subsection (2) of  
56 section 212.08, Florida Statutes, are amended to read:

57 212.08 Sales, rental, use, consumption, distribution, and  
58 storage tax; specified exemptions.—The sale at retail, the

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59 rental, the use, the consumption, the distribution, and the  
60 storage to be used or consumed in this state of the following  
61 are hereby specifically exempt from the tax imposed by this  
62 chapter.

63 (2) EXEMPTIONS; MEDICAL.—

64 (a) There shall be exempt from the tax imposed by this  
65 chapter any medical products and supplies or medicine dispensed  
66 according to an individual prescription or prescriptions or an  
67 order for administration, written by a prescriber authorized by  
68 law to prescribe medicinal drugs; hypodermic needles; hypodermic  
69 syringes; chemical compounds and test kits used for the  
70 diagnosis or treatment of human disease, illness, or injury; and  
71 common household remedies recommended and generally sold for  
72 internal or external use in the cure, mitigation, treatment, or  
73 prevention of illness or disease in human beings, but not  
74 including cosmetics or toilet articles, notwithstanding the  
75 presence of medicinal ingredients therein, according to a list  
76 prescribed and approved by the Department of Business and  
77 Professional Regulation, which list shall be certified to the  
78 Department of Revenue from time to time and included in the  
79 rules promulgated by the Department of Revenue. There shall also  
80 be exempt from the tax imposed by this chapter artificial eyes  
81 and limbs; orthopedic shoes; prescription eyeglasses and items  
82 incidental thereto or which become a part thereof; dentures;  
83 hearing aids; crutches; prosthetic and orthopedic appliances;  
84 and funerals. In addition, any items intended for one-time use  
85 which transfer essential optical characteristics to contact  
86 lenses shall be exempt from the tax imposed by this chapter;  
87 however, this exemption shall apply only after \$100,000 of the

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88 tax imposed by this chapter on such items has been paid in any  
89 calendar year by a taxpayer who claims the exemption in such  
90 year. Funeral directors shall pay tax on all tangible personal  
91 property used by them in their business.

92 (b) For the purposes of this subsection:

93 1. "Prosthetic and orthopedic appliances" means any  
94 apparatus, instrument, device, or equipment used to replace or  
95 substitute for any missing part of the body, to alleviate the  
96 malfunction of any part of the body, or to assist any disabled  
97 person in leading a normal life by facilitating such person's  
98 mobility. Such apparatus, instrument, device, or equipment shall  
99 be exempted according to an individual prescription or  
100 prescriptions written by a physician licensed under chapter 458,  
101 chapter 459, chapter 460, chapter 461, or chapter 466, or  
102 according to a list prescribed and approved by the Department of  
103 Health, which list shall be certified to the Department of  
104 Revenue from time to time and included in the rules promulgated  
105 by the Department of Revenue.

106 2. "Cosmetics" means articles intended to be rubbed,  
107 poured, sprinkled, or sprayed on, introduced into, or otherwise  
108 applied to the human body for cleansing, beautifying, promoting  
109 attractiveness, or altering the appearance and also means  
110 articles intended for use as a compound of any such articles,  
111 including, but not limited to, cold creams, suntan lotions,  
112 makeup, and body lotions.

113 3. "Toilet articles" means any article advertised or held  
114 out for sale for grooming purposes and those articles that are  
115 customarily used for grooming purposes, regardless of the name  
116 by which they may be known, including, but not limited to, soap,

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117 toothpaste, hair spray, shaving products, colognes, perfumes,  
118 shampoo, deodorant, and mouthwash.

119 4. "Prescription" includes any order for drugs or medicinal  
120 supplies written or transmitted by any means of communication by  
121 a ~~duly~~ licensed practitioner authorized by the laws of this ~~the~~  
122 state to prescribe such drugs or medicinal supplies and intended  
123 to be dispensed by a pharmacist, except for an order that is  
124 dispensed for administration. The term also includes an orally  
125 transmitted order by the lawfully designated agent of such  
126 practitioner; ~~-. The term also includes~~ an order written or  
127 transmitted by a practitioner licensed to practice in a  
128 jurisdiction other than this state, but only if the pharmacist  
129 called upon to dispense such order determines, in the exercise  
130 of his or her professional judgment, that the order is valid and  
131 necessary for the treatment of a chronic or recurrent illness;  
132 and. ~~The term also includes~~ a pharmacist's order for a product  
133 selected from the formulary created pursuant to s. 465.186. A  
134 prescription may be retained in written form, or the pharmacist  
135 may cause it to be recorded in a data processing system,  
136 provided that such order can be produced in printed form upon  
137 lawful request.

138 Section 2. Paragraph (g) of subsection (4) of section  
139 458.347, Florida Statutes, is amended to read:

140 458.347 Physician assistants.—

141 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

142 (g) A supervisory physician may delegate to a licensed  
143 physician assistant the authority to, and the licensed physician  
144 assistant acting under the direction of the supervisory  
145 physician may, order any medication ~~medications~~ for

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146 administration to the supervisory physician's patient ~~during his~~  
147 ~~or her care~~ in a facility licensed under chapter 395,  
148 ~~notwithstanding any provisions in chapter 465 or chapter 893~~  
149 ~~which may prohibit this delegation. For the purpose of this~~  
150 ~~paragraph, an order is not considered a prescription. A licensed~~  
151 ~~physician assistant working in a facility that is licensed under~~  
152 ~~chapter 395 may order any medication under the direction of the~~  
153 ~~supervisory physician.~~

154 Section 3. Paragraph (f) of subsection (4) of section  
155 459.022, Florida Statutes, is amended to read:

156 459.022 Physician assistants.—

157 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

158 (f) A supervisory physician may delegate to a licensed  
159 physician assistant the authority to, and the licensed physician  
160 assistant acting under the direction of the supervisory  
161 physician may, order any medication ~~medications~~ for  
162 administration to the supervisory physician's patient ~~during his~~  
163 ~~or her care~~ in a facility licensed under chapter 395,  
164 ~~notwithstanding any provisions in chapter 465 or chapter 893~~  
165 ~~which may prohibit this delegation. For the purpose of this~~  
166 ~~paragraph, an order is not considered a prescription. A licensed~~  
167 ~~physician assistant working in a facility that is licensed under~~  
168 ~~chapter 395 may order any medication under the direction of the~~  
169 ~~supervisory physician.~~

170 Section 4. Paragraph (a) of subsection (3) of section  
171 464.012, Florida Statutes, is amended to read:

172 464.012 Certification of advanced registered nurse  
173 practitioners; fees.—

174 (3) An advanced registered nurse practitioner shall perform

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175 those functions authorized in this section within the framework  
176 of an established protocol that is filed with the board upon  
177 biennial license renewal and within 30 days after entering into  
178 a supervisory relationship with a physician or changes to the  
179 protocol. The board shall review the protocol to ensure  
180 compliance with applicable regulatory standards for protocols.  
181 The board shall refer to the department licensees submitting  
182 protocols that are not compliant with the regulatory standards  
183 for protocols. A practitioner currently licensed under chapter  
184 458, chapter 459, or chapter 466 shall maintain supervision for  
185 directing the specific course of medical treatment. Within the  
186 established framework, an advanced registered nurse practitioner  
187 may:

188 (a) Monitor and alter drug therapies and order any  
189 medication for administration to a patient in a facility  
190 licensed under chapter 395.

191 Section 5. Subsection (14) of section 465.003, Florida  
192 Statutes, is amended to read:

193 465.003 Definitions.—As used in this chapter, the term:

194 (14) "Prescription" includes any order for drugs or  
195 medicinal supplies written or transmitted by any means of  
196 communication by a ~~duly~~ licensed practitioner authorized by the  
197 laws of this ~~the~~ state to prescribe such drugs or medicinal  
198 supplies and intended to be dispensed by a pharmacist, except  
199 for an order that is dispensed for administration. The term also  
200 includes an orally transmitted order by the lawfully designated  
201 agent of such practitioner; ~~—The term also includes an order~~  
202 written or transmitted by a practitioner licensed to practice in  
203 a jurisdiction other than this state, but only if the pharmacist

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204 called upon to dispense such order determines, in the exercise  
205 of her or his professional judgment, that the order is valid and  
206 necessary for the treatment of a chronic or recurrent illness;  
207 and. ~~The term "prescription" also includes~~ a pharmacist's order  
208 for a product selected from the formulary created pursuant to s.  
209 465.186. Prescriptions may be retained in written form or the  
210 pharmacist may cause them to be recorded in a data processing  
211 system, provided that such order can be produced in printed form  
212 upon lawful request.

213 Section 6. Subsections (1) and (22) of section 893.02,  
214 Florida Statutes, are amended to read:

215 893.02 Definitions.—The following words and phrases as used  
216 in this chapter shall have the following meanings, unless the  
217 context otherwise requires:

218 (1) "Administer" or "administration" means the direct  
219 application of a controlled substance, whether by injection,  
220 inhalation, ingestion, or any other means, to the body of a  
221 person or animal.

222 (22) "Prescription" ~~means and includes~~ any an order for  
223 drugs or medicinal supplies which is written, ~~signed,~~ or  
224 transmitted by any ~~word of mouth, telephone, telegram, or other~~  
225 means of communication by a ~~duly~~ licensed practitioner  
226 authorized licensed by the laws of this ~~the~~ state to prescribe  
227 such drugs or medicinal supplies, is issued in good faith and in  
228 the course of professional practice, is intended to be filled,  
229 ~~compounded, or dispensed by a another person~~ authorized licensed  
230 by the laws of this ~~the~~ state to do so, and meets ~~meeting~~ the  
231 requirements of s. 893.04.

232 (a) The term also includes an order for drugs or medicinal

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233 supplies ~~se~~ transmitted or written by a physician, dentist,  
234 veterinarian, or other practitioner licensed to practice in a  
235 state other than Florida, but only if the pharmacist called upon  
236 to fill such an order determines, in the exercise of his or her  
237 professional judgment, that the order was issued pursuant to a  
238 valid patient-physician relationship, that it is authentic, and  
239 that the drugs or medicinal supplies ~~se~~ ordered are considered  
240 necessary for the continuation of treatment of a chronic or  
241 recurrent illness.

242 (b) The term does not include an order that is dispensed  
243 for administration by a licensed practitioner authorized by the  
244 laws of this state to administer such drugs or medicinal  
245 supplies.

246 (c) However, If the physician writing the prescription is  
247 not known to the pharmacist, the pharmacist shall obtain proof  
248 to a reasonable certainty of the validity of the said  
249 prescription.

250 (d) A prescription order for a controlled substance may  
251 ~~shall~~ not be issued on the same prescription blank with another  
252 prescription ~~order~~ for a controlled substance that ~~which~~ is  
253 named or described in a different schedule or with another, ~~nor~~  
254 ~~shall any prescription order for a controlled substance be~~  
255 ~~issued on the same prescription blank as a prescription order~~  
256 for a medicinal drug, as defined in s. 465.003(8), that is ~~which~~  
257 ~~does not fall within the definition of a controlled substance as~~  
258 ~~defined in this act.~~

259 Section 7. Paragraphs (a), (d), and (f) of subsection (2)  
260 of section 893.04, Florida Statutes, are amended to read:

261 893.04 Pharmacist and practitioner.—

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262 (2) (a) A pharmacist may not dispense a controlled substance  
263 listed in Schedule II, Schedule III, or Schedule IV to any  
264 patient or patient's agent without first determining, in the  
265 exercise of her or his professional judgment, that the  
266 prescription order is valid. The pharmacist may dispense the  
267 controlled substance, in the exercise of her or his professional  
268 judgment, when the pharmacist or pharmacist's agent has obtained  
269 satisfactory patient information from the patient or the  
270 patient's agent.

271 (d) Each ~~written~~ written prescription ~~prescribed~~ by a  
272 practitioner in this state for a controlled substance listed in  
273 Schedule II, Schedule III, or Schedule IV must include ~~both~~ a  
274 written and a numerical notation of the quantity of the  
275 controlled substance prescribed and a notation of the date in  
276 numerical, month/day/year format, or with the abbreviated month  
277 written out, or the month written out in whole. A pharmacist  
278 may, upon verification by the prescriber, document any  
279 information required by this paragraph. If the prescriber is not  
280 available to verify a prescription, the pharmacist may dispense  
281 the controlled substance, but may insist that the person to whom  
282 the controlled substance is dispensed provide valid photographic  
283 identification. If a prescription includes a numerical notation  
284 of the quantity of the controlled substance or date, but does  
285 not include the quantity or date written out in textual format,  
286 the pharmacist may dispense the controlled substance without  
287 verification by the prescriber of the quantity or date if the  
288 pharmacy previously dispensed another prescription for the  
289 person to whom the prescription was written.

290 (f) A pharmacist may not knowingly dispense fill a

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291 prescription that has been forged for a controlled substance  
292 listed in Schedule II, Schedule III, or Schedule IV.

293 Section 8. Subsection (1) of section 893.05, Florida  
294 Statutes, is amended to read:

295 893.05 Practitioners and persons administering controlled  
296 substances in their absence.—

297 (1) (a) A practitioner, in good faith and in the course of  
298 his or her professional practice only, may prescribe,  
299 administer, dispense, mix, or otherwise prepare a controlled  
300 substance, or the practitioner may cause the controlled  
301 substance ~~same~~ to be administered by a licensed nurse or an  
302 intern practitioner under his or her direction and supervision  
303 only.

304 (b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s.  
305 464.012(3), as applicable, a practitioner who supervises a  
306 licensed physician assistant or advanced registered nurse  
307 practitioner may authorize the licensed physician assistant or  
308 advanced registered nurse practitioner to order controlled  
309 substances for administration to a patient in a facility  
310 licensed under chapter 395.

311 (c) A veterinarian may ~~se~~ prescribe, administer, dispense,  
312 mix, or prepare a controlled substance for use on animals only,  
313 and may cause the controlled substance ~~it~~ to be administered by  
314 an assistant or orderly under the veterinarian's direction and  
315 supervision only.

316 (d) A certified optometrist licensed under chapter 463 may  
317 not administer or prescribe a controlled substance listed in  
318 Schedule I or Schedule II of s. 893.03.

319 Section 9. Subsection (26) of s. 400.462, subsection (1) of

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320 s. 401.445, subsection (18) of s. 409.906, and subsection (3) of  
321 s. 766.103, Florida Statutes, are reenacted for the purpose of  
322 incorporating the amendments made by this act to ss. 458.347 and  
323 459.022, Florida Statutes, in references thereto.

324 Section 10. Subsection (1) of s. 401.445 and subsection (3)  
325 of s. 766.103, Florida Statutes, are reenacted for the purpose  
326 of incorporating the amendment made by this act to s. 464.012,  
327 Florida Statutes, in references thereto.

328 Section 11. Paragraph (a) of subsection (1) of s. 409.9201,  
329 paragraph (pp) of subsection (1) of s. 458.331, paragraph (rr)  
330 of subsection (1) of s. 459.015, subsection (1) of s. 465.014,  
331 paragraph (c) of subsection (2) of s. 465.015, paragraph (s) of  
332 subsection (1) of s. 465.016, paragraph (j) of subsection (5) of  
333 s. 465.022, paragraph (h) of subsection (1) of s. 465.023, s.  
334 465.1901, subsection (43) of s. 499.003, and subsection (1) of  
335 s. 831.30, Florida Statutes, are reenacted for the purpose of  
336 incorporating the amendments made by this act to s. 465.003,  
337 Florida Statutes, in references thereto.

338 Section 12. Paragraph (i) of subsection (5) of s. 112.0455,  
339 paragraph (b) of subsection (7) of s. 381.986, paragraph (l) of  
340 subsection (1) of s. 440.102, paragraph (pp) of subsection (1)  
341 of s. 458.331, paragraph (rr) of subsection (1) of s. 459.015,  
342 subsection (3) of s. 465.015, paragraph (s) of subsection (1) of  
343 s. 465.016, paragraph (j) of subsection (5) of s. 465.022,  
344 paragraph (h) of subsection (1) of s. 465.023, subsection (14)  
345 of s. 499.0121, paragraph (b) of subsection (1) of s. 768.36,  
346 paragraph (f) of subsection (3) of s. 810.02, paragraph (c) of  
347 subsection (2) of s. 812.014, paragraph (c) of subsection (1) of  
348 s. 856.015, paragraph (a) of subsection (1) of s. 944.47,

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349 subsection (1) of s. 951.22, paragraph (a) of subsection (1) of  
350 s. 985.711, paragraph (i) of subsection (1) of s. 1003.57, and  
351 subsection (8) of s. 1006.09, Florida Statutes, are reenacted  
352 for the purpose of incorporating the amendments made by this act  
353 to s. 893.02, Florida Statutes, in references thereto.

354 Section 13. Paragraph (e) of subsection (3) of s. 893.0551,  
355 Florida Statutes, is reenacted for the purpose of incorporating  
356 the amendments made by this act to s. 893.04, Florida Statutes,  
357 in a reference thereto.

358 Section 14. Paragraph (d) of subsection (3) of s. 893.0551,  
359 Florida Statutes, is reenacted for the purpose of incorporating  
360 the amendments made by this act to s. 893.05, Florida Statutes,  
361 in a reference thereto.

362 Section 15. This act shall take effect July 1, 2015.