

NOTICE OF PROPOSED RULE DEVELOPMENT WORKSHOP

DEPARTMENT OF REVENUE

SALES AND USE TAX

RULE TITLE:	RULE NO:
Practitioners of the Healing Arts	12A-1.002
Industrial Gases	12A-1.015
Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances	12A-1.020
Veterinary Sales and Services	12A-1.0205
Prosthetic and Orthopedic Appliances	12A-1.021
Public Use Forms	12A-1.097

PURPOSE AND EFFECT: The purpose of the proposed repeal of Rule 12A-1.002, F.A.C. (Practitioners of the Healing Arts), is to remove provisions that will be rendered unnecessary with the adoption of the proposed substantial rewording of Rule 12A-1.020, F.A.C., and the proposed creation of Rule 12A-1.0205, F.A.C. Provisions applicable to practitioners of the healing arts are included in those proposed rules.

The purpose of the proposed repeal of Rule 12A-1.015, F.A.C. (Industrial Gases), is to remove provisions regarding the application of tax to certain gases that are redundant of other administrative rules. Provisions for compressed medical gases and medical oxygen are included in the proposed amendments to Rule 12A-1.020, F.A.C.

The purpose of the proposed substantial rewording of Rule 12A-1.020, F.A.C. (Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances), is to clarify the application of tax to items sold to hospitals, physicians, dentists, and other

licensed practitioners for use in their practice of medicine and clarify the exemption for drugs, medicinal supplies, prosthetic and orthopedic appliances, and medical products, supplies, and devices. These rule amendments, when adopted, will provide: (1) a definition of the terms “licensed practitioner” and “prescription” for purposes of the rule”; (2) that hospitals and licensed practitioners are required to pay tax on taxable items or services consumed in providing medical services; (3) the exemption provided for prescription drugs and medical gases and opaque drugs; (4) the exemption provided for common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings and the taxability of cosmetics, toilet articles, and hygiene products; (5) that medical products and supplies are subject to tax, unless specifically exempt under Section 212.08(2), F.S.; (6) that medical products or supplies are exempt when dispensed pursuant to a written prescription; (7) that medical products or supplies bearing the prescription labeling required under federal law are exempt when intended to be used one time only; (8) the exemption for medical products or supplies that are temporarily or permanently incorporated into a patient; (9) that medical trays bearing the federally required prescription labeling and that are intended to be used one time only are exempt from tax; (10) a suggested exemption certificate to be used to purchase tax-exempt medical products or supplies; (11) the taxability of chemical compounds and test kits, including a list of tax-exempt and a list of taxable chemical compounds and test kits; (12) the definition of “prosthetic or orthopedic appliances” and when such appliances are exempt from tax; (13) the exemption for parts or other items added to tangible personal property so that a handicapped person may use an item; (14) the exemption for orthopedic or corrective shoes; (15) the taxability of eyeglasses and lenses; (16) the exemption for stock lenses and a suggested exemption certificate to buy certain stock lenses tax-exempt;

and (18) recordkeeping requirements.

The purpose of the proposed creation of Rule 12A-1.0205, F.A.C. (Veterinary Sales and Services), is to provide for the taxability of veterinary services, for the taxability of items used in the practice of veterinary medicine, for the exemptions provided for substances possessing curative or remedial properties, and for the taxability of medical supplies and products used in the treatment of animals. The proposed new rule, when adopted, will provide: (1) that professional services provided by veterinarians are not subject to tax; (2) that charges for hospitalization of animals are not subject to tax; (3) that charges for boarding and grooming services are not subject to tax, but items consumed in providing those services are subject to tax; (4) that prescription drugs, medical gases, and opaque drugs are exempt when containing the required federal labeling; (5) for the taxability of items used by veterinarians for treatment of animals and a list of items that are specifically exempt when purchased by veterinarians; (6) that medical products or supplies bearing the prescription labeling required under federal law are exempt when intended to be used one-time only; (7) that medical products that are temporarily or permanently incorporated into an animal are exempt; (8) that medical trays bearing the prescription labeling required under federal law and that are intended for a single use are exempt from tax; (9) when commonly recognized substances possessing curative or remedial properties purchased by veterinarians are exempt; (10) a suggested exemption certificate to be used to purchase tax-exempt substances and medical products or supplies; (11) how to purchase items tax-exempt for purposes of resale to clients; and (12) recordkeeping requirements.

The purpose of the proposed repeal of Rule 12A-1.021, F.A.C., is to move the provisions regarding the exemptions provided for prosthetic and orthopedic appliances and for prescribed parts and attachments to tangible personal property so that a handicapped person can use them to

the substantial rewording of Rule 12A-1.020, F.A.C. (Licensed Practitioners; Drugs, Medical Products and Supplies, and Prosthetic and Orthopedic Appliances).

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C., is to adopt, by reference, changes to Form DR-46NT, Nontaxable Medical and General Grocery List, to include updated lists of tax-exempt Common Household Remedies and tax-exempt Prosthetic and Orthopedic appliances, as certified by the Department of Health on September 18, 2007.

SUBJECT AREA TO BE ADDRESSED: The subject of this workshop is the proposed changes to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), regarding: (1) the application of tax to items sold to hospitals, physicians, dentists, and other licensed practitioners for use in their practice of medicine and the taxability of chemical compounds and test kits, common household remedies, drugs, eyeglasses and lenses, medical gases, medical products and supplies, and prosthetic and orthopedic appliances; and (2) the application of tax to items used in the practice of veterinary medicine, including medical supplies and products used in the treatment of animals, and the exemptions provided for substances possessing curative or remedial properties.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), (3), 213.06(1) F.S.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 212.02, 212.05, 212.06, 212.08(2), 212.085, 212.13, 212.18(2), (3), FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: May 19, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in any rulemaking proceeding before Technical

Assistance and Dispute Resolution is asked to advise the Department at least 48 hours before such proceeding by contacting Larry Green at (850)922-4830. Persons with hearing or speech impairments may contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (Voice) and (800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT WORKSHOP IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12A-1, FLORIDA ADMINISTRATIVE CODE
SALES AND USE TAX
AMENDING RULES 12A-1.020 AND 12A-1.097
REPEALING RULES 12A-1.002, 12A-1.015, AND 12A-1.021
CREATING RULE 12A-1.0205

12A-1.002 Practitioners of the Healing Arts.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (19), 212.05(1), 212.08(2), (7) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.02, Repealed

_____.

12A-1.015 Industrial Gases.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), 212.05, 212.08(2), (6), (7)(o) FS. History-Revised 10-7-68, 6-16-72, Formerly 12A-1.15, Repealed_____.

(Substantial Rewording of Rule 12A-1.020 follows. See Florida Administrative Code for present text.)

12A-1.020 Licensed Practitioners; Drugs, ~~Medicine and~~ Medical Products and Supplies, and Prosthetic and Orthopedic Appliances.

(1) SCOPE.

(a) Section 212.08(2), F.S., provides an exemption for certain items used in the practice

of medicine by hospitals, physicians, dentists, and other licensed practitioners. This rule is intended to clarify the application of tax to items sold to hospitals, physicians, dentists, and other licensed practitioners for use in their practice of medicine. This rule is also intended to clarify the exemption for chemical compounds and test kits, common household remedies, drugs, eyeglasses and lenses, medical gases, medical products and supplies, and prosthetic and orthopedic appliances.

(b) Rule 12A-1.0205, F.A.C. (Veterinary Sales and Services), is intended to provide guidance to veterinarians for items used in the practice of veterinary medicine, for the exemptions provided for substances possessing curative or remedial properties, and for medical supplies and products used in the treatment of animals.

(2) LICENSED PRACTITIONERS.

(a) For purposes of this rule, a “licensed practitioner” is any person who is duly licensed and authorized by laws of the State of Florida to administer, prescribe, or dispense, as appropriate, a drug or device for medical purposes.

(b) For purposes of this rule, the term “prescription” includes:

1. Any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the State of Florida to prescribe such drugs or medicinal supplies that are intended to be dispensed by a pharmacist;

2. An orally transmitted order by the lawfully designated agent of a licensed practitioner;

3. An order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness;

4. A pharmacist's order for a product selected from the formulary created pursuant to Section 465.186, F.S., and Rule Chapters 64B8-36, 64B15-18, and 64B16-27, F.A.C.

(c) Hospitals and licensed practitioners are required to pay tax at the time of purchase on taxable items or services used or consumed in providing medical services. See Rule 12A-1.038, F.A.C., for tax-exempt purchases by hospitals that hold a valid Consumer's Certificate of Exemption issued by the Department.

(3) MEDICINES AND DRUGS.

(a) The sale or use of medicines and drugs including samples, to or by hospitals, physicians, dentists, and other licensed practitioners in connection with medical treatment, is exempt. Drugs and medicines dispensed or administered in this manner are required by federal law to be labeled "Rx only" or to contain a federal warning, such as "Caution: Federal law prohibits dispensing without prescription."

(b) Opaque drugs, including X-ray opaques, and radiopaque, such as the various opaque dyes and barium sulphate, that are used in the connection with medical X-rays for the treatment of human bodies are exempt.

(4) MEDICAL GASES.

(a) Compressed medical gases and medical oxygen in compliance with the provisions of 21 C.F.R. Parts 200-299 and Rule 64F-12.007, F.A.C., are exempt. Compressed medical gases and medical oxygen are required by federal law to be labeled "Rx only" or to contain the federally required warning as a prescription drug or medicine.

(b) The charge for filling or refilling tanks containing compressed air or nitrox to be used for scuba diving is subject to tax.

(5) COMMON HOUSEHOLD REMEDIES; COSMETICS; TOILET ARTICLES;

HYGEINE PRODUCTS.

(a)1. Common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, according to a list prescribed and approved by the Department of Health and certified to the Department of Revenue, are exempt. This list is contained in Form DR-46NT, Nontaxable Medical and General Grocery List (incorporated by reference in Rule 12A-1.097, F.A.C.).

2. Common household items that are not intended to cure, mitigate, treat, or prevent illness or disease in human beings are subject to tax. For example, disinfectants used for the sterilization of glass, containers, utensils, or equipment are subject to tax; products used for the purification of air or for deodorants are subject to tax; chlorine used for the treatment of water in swimming pools is subject to tax.

(b) The exemption provided for common household remedies does not include cosmetics or toilet articles, even when the cosmetic or toilet article contains medicinal ingredients.

Cosmetics and toilet articles, including those that contain medicinal ingredients, are subject to tax, except when dispensed pursuant to a prescription written by a licensed practitioner.

1. For purposes of this rule, "cosmetics" means any article intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance. The term includes articles intended for use as a compound of any such articles, such as cold creams, suntan products, makeup, and body lotions.

2. For purposes of this rule, "toilet articles" means any article advertised or held out for sale for grooming purposes and those articles which are customarily used for grooming purposes.

regardless of the name by which they may be known, such as soaps, toothpastes, hair sprays, shaving products, colognes, perfumes, shampoos, deodorants, and mouthwashes.

(c) Personal hygiene products, except when dispensed pursuant to a prescription written by a licensed practitioner, are subject to tax.

(d) Contraceptive products, except when dispensed pursuant to a prescription written by a licensed practitioner, are subject to tax.

(e) Taxpayers who have a question regarding the taxable status of a product may submit a written description of the product, including the product name, ingredients, and recommended uses, to the Department. This request should be addressed to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443.

(6) MEDICAL PRODUCTS, SUPPLIES, OR DEVICES.

(a) “Medical products, supplies, or devices” are any products, supplies, or devices that are intended or designed to be used for a medical purpose to treat, prevent, or diagnose human disease, illness, or injury. The purpose is assigned to a product, supply, or device by its label or its general instructions for use.

(b) Medical products, supplies, and devices that are dispensed according to an individual prescription written by a licensed practitioner, are exempt.

(c)1. The sale of medical products, supplies, or devices to hospitals and to licensed practitioners is subject to tax, unless specifically exempt, as provided in Section 212.08(2), F.S. (such as crutches, lithotripters, human organs, hypodermic needles, and hypodermic syringes), and in this rule.

2. Examples of medical products, supplies, or devices that are subject to tax include items

such as: absorbent cotton; gloves, gowns, uniforms, masks, drapes, or towels; infusion pumps; reusable knives, needles, or scissors; scales; ear syringes; tongue depressors; specimen bags; instruments, equipment, and machines and their parts and accessories; microscopes; examination tables; hospital beds; X-ray machines; X-ray films and developing solutions; computerized axial tomography (CAT) machines; and magnetic resonance imaging (MRI) machines. This is not intended to be an exhaustive list.

(d)1. Medical products, supplies, or devices sold to hospitals, healthcare entities, or licensed practitioners are exempt when:

a. The medical product, supply, or device is required under federal law to bear a prescription legend that reads either “RX only,” or “CAUTION: Federal law restricts this device to sale by or on the order of a _____ [designation of a licensed health care practitioner authorized to use or order the use of the device]”; and

b. The medical product, supply, or device is intended for a single patient use and is not intended to be reusable.

2. Medical trays containing medical products, supplies, or devices that are required under federal law to bear the required prescription label and are intended for a single patient use are exempt, even when the medical tray contains an item that, when sold separately, is subject to tax. For example, surgical kits and procedure kits that bear the required prescription label and are intended for a single patient use are exempt.

3. No exemption certificate is required to be obtained by the selling dealer from the purchasing hospital, healthcare entity, or licensed practitioner to document tax-exempt sales of medical products, supplies, or devices that bear the required prescription label. However, selling dealers are required to maintain documents in their records evidencing that the medical product,

supply, or device sold to a hospital, healthcare entity, or licensed practitioner bears the prescription legend required under federal law.

(e)1. Medical products, supplies, and devices used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient(s) that are temporarily or permanently incorporated into a patient(s) by a licensed practitioner are exempt. Such medical products, supplies, and devices may be purchased tax-exempt when the licensed practitioner, or an authorized representative of the licensed practitioner, extends an exemption certificate to the selling dealer certifying that the purchased medical products, supplies, or devices will be temporarily or permanently incorporated into a patient(s) for the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient(s). The following is a suggested exemption certificate:

EXEMPTION CERTIFICATE

MEDICAL PRODUCTS, SUPPLIES, OR DEVICES

I, the undersigned individual, as a practitioner licensed in the State of Florida, or an authorized representative of a licensed practitioner, certify that the medical products, supplies, or devices purchased on or after _____ (date) from _____ (Selling Dealer's Business Name) meet the definition of a medical product, supply, or device and will be dispensed according to a prescription or are purchased for use in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of a patient and will be temporarily or permanently incorporated into a patient.

I understand that if I use the medical product, supply, or device for any nonexempt purpose, I must pay tax on the purchase price of the item directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I

will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I declare that I have read the foregoing Certificate and that the facts stated herein are true.

Licensed Practitioner's Name: _____

Florida License Number: _____

Licensed Practitioner's Address: _____

Name of Practitioner or Authorized Representative: _____

(Signature of Licensed Practitioner or Authorized Representative)

Title

Date _____

(7) CHEMICAL COMPOUNDS AND TEST KITS.

(a) The sale of chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury is exempt. The following is a nonexhaustive list of tax-exempt chemical compounds and test kits:

1. Allergy test kits that use human blood to test for the most common allergens;
2. Anemia meters and test kits;
3. Antibodies to Hepatitis C test kits;
4. Bilirubin test kits (blood or urine);
5. Blood analyzers, blood collection tubes, lancets, capillaries, test strips, tubes

containing chemical compounds, and test kits to test human blood for levels of albumin,

cholesterol, HDL, LDL, triglycerides, glucose, ketones, or other detectors of illness, disease, or injury;

6. Blood sugar (glucose) test kits, reagent strips, test tapes, and other test kit refills;

7. Blood pressure monitors, kits, and parts;

8. Breast self-exam kit;

9. Fecal occult blood tests (colorectal tests);

10. Hemoglobin test kits;

11. Human Immunodeficiency Virus (HIV) test kits and systems;

12. Influenza AB test kits;

13. Middle ear monitor;

14. Prostate Specific Antigen (PSA) test kits;

15. Prothrombin (clotting factor) test kits;

16. Thermometers, for human use;

17. Thyroid Stimulating Hormone (TSH) test kits;

18. Urinalysis test kits, reagent strips, tablets, and test tapes to test levels, such as albumin, blood, glucose, leukocytes, nitrite, pH, or protein levels, in human urine as detectors of illness, disease, or injury;

19. Urinary tract infection test kits; and

20. Vaginal acidity (pH) test kits.

(b) Chemical compounds and test kits that are not used to diagnose or treat human disease, illness, or injury are subject to tax. The following is a nonexhaustive list of chemical compounds and test kits that do not test for human illness, disease, or injury and are subject to tax:

1. Blood typing test kits for home use;

2. DNA tests (such as maternity tests, paternity tests, sibling ship tests, twin zygoty tests, ancestry testing, avuncular (grandparent, aunt, and uncle) tests, male lineage tests, or article tests);

3. Drug and alcohol (including nicotine) test kits;

4. Ethanol breathalyzer tests (alcohol intoxication);

5. Follicle stimulating hormone (FSH) test kits;

6. Hazard chemicals detection kits;

7. Male fertility (semen analysis) test kits;

8. Menopause monitors and test kits;

9. Ovulation/leutinizing hormone (LH) test kits;

10. Personal wellness or body balance check test kits, such as those to measure hormone levels, cortisol levels, melatonin levels, mineral levels, or antioxidant levels; and

11. Pregnancy test kits;

(8) PROSTHETIC AND ORTHOPEDIC APPLIANCES.

(a) For purposes of this rule, “prosthetic and orthopedic appliances” means any apparatus, instrument, device, or equipment used to:

1. Replace or substitute for any missing part of the body;

2. Alleviate the malfunction of any part of the body; or

3. Assist any disabled person in leading a normal life by facilitating such person’s mobility.

(b) Artificial eyes, artificial limbs, crutches, dentures, and hearings aids are specifically exempt prosthetic and orthopedic appliances. Prosthetic and orthopedic appliances prescribed

and approved by the Department of Health and certified to the Department of Revenue are exempt and do not require a prescription to qualify for exemption. The list of tax-exempt prosthetic and orthopedic appliances is contained in Form DR-46NT, Nontaxable Medical and General Grocery List.

(c)1. Prosthetic and orthopedic appliances are exempt when sold or dispensed pursuant to an individual prescription or prescriptions written by a physician licensed under:

- a. Chapter 458, F.S., Medical Practice;
- b. Chapter 459, F.S., Osteopathic Medicine;
- c. Chapter 460, F.S., Chiropractic Medicine;
- d. Chapter 461, F.S., Podiatric Medicine;
- e. Chapter 466, F.S., Dentistry, Dental Hygiene, and Dental Laboratories.

2. When a licensed physician prescribes an item to a patient that qualifies as a prosthetic or orthopedic appliance, the physician must indicate on the prescription the medical use of the item, or the medical condition that will be improved through the use of the item.

(d) Taxpayers who have a question regarding the taxable or exempt status of a prosthetic or orthopedic appliance may submit a written request to the Department, containing the name and a description of the appliance and its recommended use, for a determination of taxability of the appliance. The written request should be addressed to: Florida Department of Revenue, Technical Assistance and Dispute Resolution, P.O. Box 7443, Tallahassee, Florida 32314-7443.

(9) PRESCRIBED PARTS AND ATTACHMENTS.

(a) Parts, special attachments, special lettering, and other like items that are added to or attached to tangible personal property to assist a person with special needs are exempt when purchased pursuant to an individual prescription. When purchased without an individual

prescription, these items are subject to tax. For example, items installed on motor vehicles to make them adaptable for use by persons with special needs, such as special controls, purchased pursuant to a written prescription are exempt; however, the motor vehicle and the standard or optional equipment available on the motor vehicle are subject to tax.

(b) If tangible personal property is sold with special controls, lettering, or devices, and the additional charge for the added features is separately stated on the sales invoice for the tangible personal property, that charge for the added features is exempt when purchased pursuant to an individual prescription.

(10) ORTHOPEDIC OR CORRECTIVE SHOES.

(a) Orthopedic shoes made to specifications prescribed by a podiatrist, orthopedist, or other physician for the purpose of treating or preventing illness or disease, or to correct physical incapacity are exempt from tax.

(b) Shoes made to order for special fitting problems, such as narrow or large feet, are subject to tax.

(c) When a shoe is modified to specifications prescribed by a podiatrist, orthopedist, or other physician by the insertion of a lift, a wedge, or an arch support for the purpose of treating or preventing illness or disease, or to correct physical incapacity, the charge for the shoe is subject to tax. However, any reasonable separately stated charge for the modification is exempt. If no separate charge is made for the modification, the entire charge is subject to tax.

(d) When a shoe is modified for a more comfortable fit (e.g., heel pad inserted or insole added), for improving the style, or for similar purposes, the total charge for the modification and the shoe is subject to tax.

(11) EYEGLASSES AND LENSES.

(a) Prescription eyeglasses, incidental items, and items that become a part of prescription eyeglasses, are exempt. Prescription eyeglasses include lenses, including contact lenses, prescribed for the correction of a patient's refractive effort, for the improvement of a patient's vision, or for protective purposes. Incidental items include frames, component parts, carrying cases, contact lens cases, and other similar items.

(b) The sale of eyeglass lens cleaning solutions, contact lens cleaning solutions, and contact lens disinfectants are subject to tax.

(c) The sale of standard or stock eyeglasses, incidental items, or items that become a part of standard or stock eyeglasses, without a prescription, is subject to tax. Some examples are: frames and component parts, carrying cases, safety glasses, sunglasses, field glasses, opera glasses, and magnifying glasses.

(d) When the purchaser of one-time items that transfer essential optical characteristics to contact lenses has paid at least \$100,000 in tax (sales tax, plus discretionary sales surtax) in any calendar year on such purchases, the purchaser is exempt from tax on purchases of such items for the remainder of that calendar year. Purchasers who hold a valid Sales and Use Tax Direct Pay Permit issued by the Department may make tax-exempt purchases of these items when:

1. The purchaser extends a copy of a valid Sales and Use Tax Direct Pay Permit, as provided in Rule 12A-1.0911, F.A.C., to the selling dealer at the time of purchase; and

2. The purchaser pays to the Department each calendar year \$100,000 in tax due on purchases of one-time items that transfer essential optical characteristics to contact lenses during the calendar year.

(12) RECORDKEEPING REQUIREMENTS.

(a) Dealers must maintain copies of exemption certificates, Annual Resale Certificates,

prescriptions, and any other documentation required under the provisions of this rule until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(b) Electronic storage by the selling dealer of the required certificates, prescriptions, and other documentation through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.08(2), 212.085, 465.186, 465.187 FS. History-Revised 10-7-68, Amended 1-17-71, Revised 6-16-72, Amended 5-27-75, 5-10-77, 6-26-78, 2-26-79, 6-3-80, 12-31-81, 8-28-84, Formerly 12A-1.20, Amended 12-8-87,_____.

12A-1.0205 Veterinary Sales and Services.

(1) VETERINARY SERVICES.

(a) Services, such as examinations, treatment, or vaccinations of animals rendered by veterinarians are not subject to tax.

(b) Charges for hospitalization as part of the veterinarian's treatment for a diagnosed health disorder are not subject to tax.

(2) BOARDING AND GROOMING SERVICES.

(a) Charges for boarding animals or for grooming animals are not subject to tax.

(b) Items purchased for use in providing boarding services or grooming services are subject to tax. For example, food (i.e. cat, dog, or bird food), nail care items, clippers, shears, brushes, combs, soaps, detergents, deodorizers, and colognes are subject to tax. Disinfectants used to clean kennels, cages, equipment, or other items used for boarding or grooming animals

are subject to tax.

(3) DRUGS AND MEDICAL GASES.

(a) The sale or use of medicines and drugs, including samples, to or by veterinarians or veterinary hospitals in connection with medical treatment is exempt. Drugs and medicines dispensed or administered in this manner are required by federal law to be labeled “Rx only” or to contain a federal warning, such as “Caution: Federal law prohibits dispensing without prescription.”

(b) Compressed medical gases or medical oxygen in compliance with the provisions of 21 C.F.R. Parts 200-299 and Rule 64F-12.007, F.A.C., which bear one of the legends required by federal law, are exempt when sold to a licensed veterinarian.

(c) Opaque drugs, including X-ray opaques, and radiopaque, such as the various opaque dyes and barium sulphate, that are used in the connection with medical X-rays for the treatment of animals are exempt.

(4) ITEMS PURCHASED FOR TREATMENT.

(a) Veterinarians are required to pay tax at the time of purchase on taxable items and services used or consumed in rendering veterinary services. Some examples of taxable items used or consumed by veterinarians in their practice are: gloves, gowns, uniforms, masks, drapes, or towels; infusion pumps; reusable, knives, needles, or scissors; scales; ear syringes; specimen bags; instruments, equipment, and machines and their parts and accessories; microscopes; examination tables; X-ray machines; X-ray films and developing solutions; computerized axial tomography (CAT) machines; magnetic resonance imaging (MRI) machines; rabies tags; identification chips; disposable medical restraint collars and muzzles; and chemical compounds and test kits used for the diagnosis or treatment of animals' disease, illness, or injury. This is not

intended to be an exhaustive list.

(b) The following items sold to veterinary clinics or hospitals or licensed veterinarians are exempt:

1. Antiseptics;
2. Absorbent cotton;
3. Gauze for bandages;
4. Hypodermic needles and syringes;
5. Lotions;
6. Vitamins; and
7. Worm remedies.

(c)1. Medical products and supplies sold to veterinary clinics or hospitals or licensed veterinarians are exempt when:

a. The medical product or supply bears one of the prescription legends required under federal law for drugs, medicines, and medicinal supplies dispensed by licensed veterinarians, as provided in paragraph (3)(c); and

b. The product or supply is intended for a single use and is not intended to be reusable.

2. Medical trays containing medical products, supplies, or devices that are required under federal law to bear the required prescription label and are intended for a single animal use are exempt, even when the medical tray contains an item that, when sold separately, is subject to tax.

For example, surgical kits and procedure kits that bear the required prescription label and are intended for a single animal use are exempt.

3. No exemption certificate is required to be obtained by the selling dealer from the purchasing veterinary clinic or hospital or licensed veterinarian to document tax-exempt sales of

medical products, supplies, or devices that bear the required prescription label. However, selling dealers are required to maintain documents in their records evidencing that the medical product, supply, or device sold to a veterinary clinic or hospital or licensed veterinarian bears the prescription legend required under federal law.

(d) Medical products and supplies used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of an animal(s) that are temporarily or permanently incorporated into an animal(s) are exempt. Such medical products and supplies may be purchased tax-exempt when the veterinarian, or an authorized representative of the licensed veterinarian, extends an exemption certificate to the selling dealer certifying that the purchased medical products or supplies will be temporarily or permanently incorporated into an animal(s) for the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of an animal(s). A suggested exemption certificate is provided in paragraph (f).

(e)1. Commonly recognized substances possessing curative or remedial properties are exempt when:

a. A licensed veterinarian prescribes the substance, or orders and dispenses the substance, as treatment for a diagnosed health disorder of an animal; and

b. The substance is applied to, or consumed by, animals for the alleviation of pain or the cure or prevention of sickness, disease, or suffering.

2. Examples: Transdermal medications, sprays, or powders designed to prevent or treat flea or tick infestation, and prescription or therapeutic pet foods, are exempt when they are prescribed by, or ordered and dispensed by, a licensed veterinarian as part of treatment of a diagnosed health disorder of an animal. When these items are dispensed or sold without an order or prescription issued by a licensed veterinarian, the charges for such items are subject to tax.

3. Commonly recognized substances possessing curative or remedial properties may be purchased tax-exempt when the licensed veterinarian, or an authorized representative of the licensed veterinarian, extends an exemption certificate to the selling dealer certifying that the purchased substance possessing curative or remedial properties will be applied to, or consumed by, an animal(s) for the alleviation of pain or the cure or prevention of sickness, disease, or suffering of an animal(s). A suggested exemption certificate is provided in paragraph (f).

(f) The following is a suggested exemption certificate:

EXEMPTION CERTIFICATE

MEDICAL PRODUCTS AND SUPPLIES

SUBSTANCES POSSESSING CURATIVE OR REMEDIAL PROPERTIES

I, the undersigned individual, as a veterinarian licensed in the State of Florida, or an authorized representative of a licensed veterinarian, certify that the items indicated below, purchased on or after _____ (date) from _____ (Selling Dealer's Business Name), are for the exempt purpose indicated below. The option checked below applies to this purchase:

() Medical products or supplies that will be temporarily or permanently incorporated into an animal for use in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity of an animal(s).

() Substances possessing curative or remedial properties that will be prescribed, ordered, or dispensed as treatment for the alleviation of pain or the cure or prevention of sickness, disease, or suffering of an animal(s).

I understand that if I use the medical product or supply or substance for any nonexempt purpose, I must pay tax on the purchase price of the item directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I

will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

Under the penalties of perjury, I declare that I have read the foregoing Certificate and that the facts stated herein are true.

Licensed Veterinarian's Name: _____

Veterinarian's Address: _____

Veterinarian's Florida License No.: _____

Name of Veterinarian's Authorized Representative: _____

(Signature of Veterinarian or Authorized Representative) Title

Date _____

(5) ITEMS PURCHASED FOR RESALE.

(a) Veterinarians who sell, lease, or rent items of tangible personal property, such as pet carriers, crates, kennels, houses, cages, clothing, bedding, toys, collars, leashes, leads, tie-outs, feeders, bowls, dishes, gates, or doors, are required to register as a dealer and collect and remit the applicable tax to the Department. This is not intended to be an exhaustive list.

(b) As a registered dealer, the veterinarian may provide a copy of the dealer's Annual Resale Certificate to purchase taxable items of tangible personal property for resale in lieu of paying tax to the selling vendor, as provided in Rule 12A-1.039, F.A.C.

(6) RECORDKEEPING REQUIREMENTS.

(a) Veterinarians must maintain copies of records indicating the prescription or orders for and the dispensing of drugs, medicines, medical products and supplies, and substances possessing curative or remedial properties in their records until tax imposed by Chapter 212,

F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(b) Electronic storage by the veterinarian of the orders or prescriptions through use of imaging, microfiche, or other electronic storage media will be sufficient compliance with the provisions of this subsection.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14), (19), 212.05, 212.08(2), 212.085, 212.18(3), 465.186, 465.187 FS. History-New_____.

12A-1.021 Prosthetic and Orthopedic Appliances.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.08(2) FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 6-9-76, 6-26-78, 12-31-81, Formerly 12A-1.21, Amended 12-8-87, Repealed_____.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (14) No change.

(15)(a) No change.

(b) DR-46NT	Nontaxable Medical and General Grocery List	
	(R. <u> </u> r. 02/92)	<u> </u> 08/92

(16) through (23) No change.

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) F.S. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History-New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 06-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07,_____.