§ 238. Definitions. As used in this title, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "Clinical laboratory services" shall mean the microbiological, serological, chemical, hematological, biophysical, cytological or pathological examination of materials derived from the human body, for the purposes of obtaining information for the diagnosis, prevention, or treatment of disease or the assessment of health condition.

2. "Fair market value" shall mean the value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

3. "Financial relationship" shall mean an ownership interest, investment interest or compensation arrangement.

4. "General hospital" shall have the same meaning as is set forth in subdivision ten of section twenty-eight hundred one of this chapter.

5. "Group practice" shall mean a group of two or more practitioners organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan or similar association; and

(a) in which each practitioner who is a member of the group provides substantially the full range of services which the practitioner routinely provides, including medical care, consultation, diagnosis or treatment, through the joint use of shared office space, facilities, equipment and personnel; and

(b) for which substantially all of the services of the practitioners who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as

receipts of the group; and

(c) in which the overhead expenses of the income from the practice are distributed in accordance with methods previously determined by members of the group; and

(d) provided, however, in the case of a faculty practice plan associated with a hospital with an approved residency training program in which practitioner members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the provisions of paragraphs (a), (b) and (c) of this subdivision shall be applied only with respect to the services provided within the faculty practice plan.

6. "Health care provider" shall mean a practitioner in an individual practice, group practice, partnership, professional corporation or other authorized form of association, a hospital or other health care institution issued an operating certificate pursuant to this chapter or the mental hygiene law, a certified home health agency or a licensed home care services agency, and any other purveyor of health or health related items or services including but not limited to a clinical laboratory, a physiological laboratory, a pharmacy, a purveyor of x-ray or imaging services, a purveyor of physical therapy services, a purveyor of health or health related supplies, appliances or equipment, or an ambulance service.

7. "Health or health related items or services" shall include, but not be limited to, items and services available under the medical assistance program pursuant to title eleven of article five of the social services law.

8. "Immediate family member" shall include spouse; birth and adoptive parents, children and siblings; stepparents, stepchildren and stepsiblings; fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law; and grandparents and grandchildren.

9. "Interested investor" shall mean, with respect to a health care

provider, an investor who is a practitioner in a position to make or to influence referrals or business to the health care provider, or who is an immediate family member of such an investor.

10. "Investor" shall mean, with respect to a health care provider, a person with a financial relationship with the health care provider, subject to the exceptions provided in paragraph (b) of subdivision three, subdivision four and paragraph (b) of subdivision five of section two hundred thirty-eight-a of this title.

11. "Practitioner" shall mean a licensed or registered physician, dentist, podiatrist, chiropractor, nurse, midwife, physician assistant or specialist assistant, physical therapist, or optometrist.

12. "Rural" shall mean (i) a county with a population of two hundred thousand persons or less, or a town with a population density of one hundred fifty persons or less per square mile; and (ii) other rural areas pursuant to standards promulgated in regulation by the commissioner.

13. "X-ray or imaging services" shall mean diagnostic imaging techniques which shall include but not be limited to the following:

(a) Conventional x-ray or radiology.
(b) Fluoroscopy.
(c) Digital radiography.
(d) Computed tomography.
(e) Magnetic resonance imaging.
(f) Nuclear imaging.
(g) Ultrasonography.
(h) Angiography.

14. "Pharmacy services" shall mean the preparing, compounding, preserving or, the dispensing of drugs, medicines and therapeutic devices on the basis of prescriptions or other legal authority.

15. "Radiation therapy services" shall mean the use of high energy x-rays, particles, or radiation materials for the treatment of cancer

and other diseases.

16. "Physical therapy services" means physical therapy as defined by section sixty-seven hundred thirty-one of the education law.

17. "Public health council" shall mean the public health and health planning council.