§ 238-d. Practitioner disclosure requirements. 1. With respect to referrals not prohibited pursuant to this title, and except as provided in subdivision three of this section, a practitioner may not make a referral to a health care provider for the furnishing of any health or health related items or services where such practitioner or immediate family member of such practitioner has any of the following financial relationships without disclosing to the patient such financial relationship:

(a) an ownership or investment interest, as defined in subdivision three of section two hundred thirty-eight-a of this title, with such health care provider; or

(b) a compensation arrangement, as defined in subdivision five of section two hundred thirty-eight-a of this title, with such health care provider which is in excess of fair market value or which provides for compensation that varies directly or indirectly based on the volume or value of any referrals of business between the parties.

2. The disclosure shall provide notice of any such financial relationship and shall also inform the patient of his or her right to utilize a specifically identified alternative health care provider if any such alternative is reasonably available, and shall be provided in a brief and reasonable form and manner specified in regulations proposed by the commissioner in consultation with consumer and physician organizations and adopted by the public health council, subject to approval by the commissioner.

3. Disclosure pursuant to this section shall not be required for a referral for the furnishing of any health or health related items or services under circumstances for which a referral of clinical laboratory services, pharmacy services, radiation therapy services, physical therapy services or x-ray or imaging services would not be prohibited pursuant to section two hundred thirty-eight-a of this title, provided that any disclosure required by section two hundred thirty-eight-a of this title remains applicable.