§ 366-d. Medical assistance provider; prohibited practices. 1. Definitions. As used in this section, "medical assistance provider" means any person, firm, partnership, group, association, fiduciary, employer or representative thereof or other entity who is furnishing care, services or supplies under title eleven of article five of this chapter.

2. No medical assistance provider shall:

(a) solicit, receive, accept or agree to receive or accept any payment or other consideration in any form from another person to the extent such payment or other consideration is given: (i) for the referral of services for which payment is made under title eleven of article five of this chapter; or (ii) to purchase, lease or order any good, facility, service or item for which payment is made under title eleven of article five of this chapter; or

(b) offer, agree to give or give any payment or other consideration in any form to another person to the extent such payment or other consideration is given: (i) for the referral of services for which payment is made under title eleven of article five of this chapter; or (ii) to purchase, lease or order any good, facility, service or item for which payment is made under title eleven of article five of this chapter;

(c) as used in this section "person" shall have the meaning set forth in subdivision seven of section 10.00 of the penal law.

(d) this subdivision shall not apply to any activity specifically exempt by federal statute or federal regulations promulgated thereunder.

3. Any medical assistance provider who violates the provisions of this section is guilty of a misdemeanor punishable by:

(a) a term of imprisonment in accordance with the penal law; or

(b) a fine of not less than five hundred dollars nor more than ten thousand dollars; or

(c) if the defendant has obtained money or property through a violation of the provisions of this section, a fine in an amount, fixed by the court, not to exceed double the amount of the defendant's gain from a violation of such provisions. In such event, the provisions of subdivision three of section 80.00 of the penal law shall be applicable

to the sentence; or

(d) both the imprisonment and the fine.

4. Any medical assistance provider who violates the provisions of this section and thereby obtains money or property having a value in excess of seven thousand five hundred dollars shall be guilty of a class E felony.