§ 2998-e. Reporting in office based surgery. 1. The commissioner may enter into agreements with accrediting agencies to require all office-based surgical practices to conduct quality improvement and quality assurance activities and utilize certification by an appropriate certifying organization, hospital privileging or other equivalent methods to determine competency of practitioners to perform office-based surgery, carry out surveys or complaint/incident investigations and shall report, at a minimum, findings of surveys and complaint/incident investigations, and data for all office-based surgical practices accredited by the accrediting agencies to the department. The department may disclose reports of aggregate data to the public.

2. The information required to be collected, maintained and reported directly to the department and the accrediting agencies and maintained by office-based surgery practices under adverse event reporting, quality improvement and quality assurance activities pursuant to section two hundred thirty-d of this chapter shall be kept confidential and shall not be released, except to the department and except as required or permitted under subdivision nine-a and subparagraph (v) of paragraph (a) of subdivision ten of section two hundred thirty of this chapter. Notwithstanding any other provision of law, none of the information collected, maintained and reported to the department or the accrediting agencies, and maintained by the office-based surgery practices under adverse event reporting, quality improvement and quality assurance activities pursuant to this section shall be subject to disclosure under article six of the public officers law or article thirty-one of the civil practice law and rules.

3. The commissioner shall make, adopt, promulgate and enforce such rules and regulations, as he or she may deem appropriate, to effectuate the purposes of this section. Where any rule or regulation under this section would affect the scope of practice of a health care practitioner licensed, registered or certified under title eight of the education law other than those licensed under articles one hundred thirty-one or one hundred thirty-one-B of the education law, the rule or regulation shall be made with the concurrence of the commissioner of education.