§ 747. Functions, powers and duties of the board. In order to effectuate the purposes of the board as set forth in the state constitution and as described in this article, the board shall have and perform the following specific functions, powers and duties:

1. (a) To visit and inspect, or cause members of its staff to visit and inspect, at such times as the board may consider to be necessary or appropriate to help insure adequate supervision, public and private facilities or agencies, whether state, county, municipal, incorporated or not incorporated which are in receipt of public funds and which are of a charitable, eleemosynary, correctional or reformatory character, including all reformatories for juveniles and facilities or agencies exercising custody of dependent, neglected, abused, maltreated, abandoned or delinquent children or persons in need of supervision, agencies engaged in the placing out or boarding out of children as defined in section three hundred seventy-one of the social services law, or in operating homes for unmarried mothers or special care homes, and facilities providing residential care for convalescent, invalid, aged, or indigent persons, but excepting state institutions for the education and support of the blind, the deaf and the dumb, and excepting also such institutions as are subject to the visitation and inspection of the state department of mental hygiene or the state commission of correction. As to institutions, whether incorporated or not incorporated, having incarcerated individuals, but not in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character, and agencies, whether incorporated or not incorporated, not in receipt of public funds, which exercise custody of abandoned, destitute, dependent, neglected, abused, maltreated or delinquent children or persons in need of supervision, the board shall make inspections, or cause inspections to be made by members of its staff, but solely as to matters directly affecting the health, safety, treatment and training of their incarcerated individuals, or of the children under their custody. Visiting and inspecting as herein authorized shall not be exclusive of other visiting and inspecting now or hereafter authorized by law.

(b) To have full access to the grounds, buildings, records, documents, books and papers relating to any facility or agency subject to being

visited and inspected by the board, including all case records of incarcerated individuals and children under their custody and all financial records.

(c) Upon visiting or inspecting any facility or agency under this article, inquiry may be made to ascertain the quality of supervision exercised by state and local agencies responsible for supervising such facilities and agencies, and the quality of program and operating standards established by such state and local agencies, and to ascertain the adequacy of such state and local agency supervision to determine the following:

(i) whether the objects of the facility or agency are being accomplished;

(ii) whether the applicable laws, rules and regulations governing its operation are fully complied with;

(iii) its methods of and equipment for vocational and scholastic education, and whether the same are best suited to the needs of its incarcerated individuals or children under their custody;

(iv) its methods of administration; and of providing care, medical attention, treatment and discipline of its residents and beneficiaries, and whether the same are best adapted to the needs of the residents and beneficiaries;

(v) the qualifications and general conduct of its officers and employees;

(vi) the condition of its grounds, buildings and other property;

(vii) the sources of public moneys received by any institution in receipt of public funds and the management and condition of its finances generally; and

(viii) any other matter connected with or pertaining to its usefulness and good management or to the interest of its residents or beneficiaries.

(d) To make a report of such visit and inspection and, notwithstanding any inconsistent provision of law, to transmit copies of such report to the governor, the legislature, all state and local governmental agencies having supervisory jurisdiction, and to such other governmental agencies as the board may consider appropriate, and to make such report available for public inspection in accordance with the requirements of the freedom of information law, and any other law which may be applicable, provided,

however, that such disclosure shall be consistent with all applicable laws and regulations governing the safeguarding of confidential records and information.

2. To conduct studies, analyses and research on specific programs and policies of the state in all matters pertaining to adult and child care programs, including care and services provided in a residential setting, services and programs designed to maintain the family structure intact and to prevent or terminate the need for such care away from their homes, and any other matter within the scope of its functions, powers and duties under this article; and to advise, aid and assist the governor regarding all policies and programs for child and adult care. Such studies, analyses and research shall be coordinated with similar activities of all other state agencies having responsibilities or authority to conduct studies, analyses and research pertaining to adult and child care programs.

3. To conduct studies, analyses and research to all matters pertaining to human services generally. Such studies, analysis and research shall be coordinated with similar activities of all other state agencies having responsibilities or authority to conduct studies, analysis and research pertaining to adult and child care programs.

4. To advocate the initiation, development, improvement and sponsorship by state and local agencies, both public and private, of such programs and policies as it may consider desirable in providing care and services for children and adults away from their own homes, or which are designed to prevent the need for care away from their own homes. The board may recommend legislation. The board is authorized to make application and to appear before any court as a friend of the court in any action or proceeding pending before such court, which is concerned with issues relevent to the board and within the scope of its functions, powers and duties under this article.

5. To direct an investigation, and to hold hearings relevant to such investigation, by a committee of one or more of its members or by duly authorized employees of the board, of the adequacy of the supervision by

any state or local agency having jurisdiction over the affairs and management of any facility or agency subject to visit and inspection by the board, or over the conduct of its officers and employees. Persons designated to make such investigations are empowered to issue compulsory process for the attendance of witnesses and production of any records, documents, books or papers relating to any matter under investigation, to administer oaths and to take the testimony of any person under oath. Upon the conclusion of such investigation, the board shall make a report, with findings of fact and conclusions of law and, notwithstanding any other provision of law to the contrary, shall transmit copies of such report to the governor, the legislature, all governmental agencies, both state and local, having supervisory jurisdiction, and to such other governmental agencies as the board may consider to be appropriate, and to make such report available for public inspection in accordance with the requirements of the freedom of information law and any other applicable law, provided, however, that such disclosure shall be consistent with all applicable laws and regulations governing the safeguarding of confidential records and information.

6. To review and comment on proposed legislation, rules and regulations pertaining to child and adult care. Each division within the executive department and all other departments of the state shall make available to the board any recommendations for legislative changes at the time such recommendations are made; any proposed rules and regulations, at least thirty days prior to the date they are adopted, except for the promulgation of such rules and regulations on an emergency basis.

7. To conduct public hearings with respect to any matter within the scope of its functions, powers and duties.

8. To enter into contracts with other state and federal agencies, and with individuals and organizations to undertake and conduct research, studies and analysis of programs in the exercise of its authority to conduct such research, studies and analysis.

9. To request from any department, division, board, bureau, commission or other agency of the state or of any political subdivision thereof, and the same are authorized to provide such facilities and assistance, and shall provide such data as will enable the board properly to exercise its powers and perform its duties.

10. To accept as agency of the state any gift, grant, including federal grant, devise or bequest, for any of the purposes of this article. Any moneys so received may be expended by the board to effectuate any purpose of this article, subject to the same limitations as to approval of expenditures and audit as are prescribed for state moneys appropriated for the purposes of this article.

11. To make an annual report to the governor and the legislature with respect to the affairs of the board, and of its recommendations.

12. To make, amend and rescind rules:

(a) governing the procedure for visits and inspections by the board, including the furnishing of information to the board as it may require on such forms as the board may provide by any facility or agency visited and inspected or to be visited and inspected;

(b) governing access to records and meetings of the board, in accordance with the requirements for such rules under the freedom of information law and the open meetings law;

(c) otherwise necessary to carry out its functions, powers and duties under this article;

(d) provided, however, that any such rules are adopted by a two-thirds vote of the members of the board and are otherwise adopted and promulgated in accordance with the procedures of the state administrative procedure act and with the applicable provisions of this chapter.

13. To do all things necessary or convenient to carry out the functions, powers and duties expressly set forth in this article.

14. The rights and powers of the board to visit, inspect and investigate may be enforced by an order of the supreme court after

notice and hearing, or by indictment by the grand jury of the county, or both.

15. Any person who intentionally refuses to comply with a lawful request of the board for access to such persons, premises or information as may be required for the board properly to perform its functions, powers and duties under this act shall be guilty of a misdemeanor.