

November 2024  
PE 24-05-678

## REGULATORY BOARD REVIEW

# BOARD OF REGISTRATION OF FORESTERS

### AUDIT OVERVIEW

The Board of Registration of Foresters Is Not Needed to Protect the Public

The Board of Registration of Foresters Complies with Some of the General Provisions of Chapter 30 of the West Virginia Code but Improvement Is Needed

The Board's Website Needs More Improvement Overall to Enhance User-Friendliness and Transparency



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WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

## PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314  
State Capitol Complex  
Charleston, West Virginia 25305  
(304) 347-4890

John Sylvia  
Director

Jill Mooney  
Research Manager

Alexander Penny  
Research Analyst

Lukas Griffith  
Referencer

---

**WEST VIRGINIA LEGISLATURE**  
*Performance Evaluation and Research Division*

1900 Kanawha Blvd. East  
Building 1, Room W-314  
Charleston, WV 25305-0610  
(304) 347-4890



**John Sylvia**  
**Director**

November 10, 2024

The Honorable Jack Woodrum  
State Senate  
Building 1, Room 214W  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

The Honorable Chris Phillips  
House of Delegates  
Building 1, Room 213E  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, West Virginia Code §4-10-9, we are transmitting a Regulatory Board Review of the *Board of Registration of Foresters*. The issues covered herein are:

1. The Board of Registration of Foresters Is Not Needed to Protect the Public
2. The Board of Registration of Foresters Complies with Some of the General Provisions of Chapter 30 of the West Virginia Code but Improvement Is Needed
3. The Board's Website Needs More Improvement Overall to Enhance User-Friendliness and Transparency

We transmitted a draft copy of the report to the Board on October 23, 2024, and held an exit conference on October 29, 2024. We received the Board's written response on October 31, 2024. If you have any inquiries on this report, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia



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## EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the Board of Registration of Foresters (Board) pursuant to the Performance Review Act, Chapter 4, Article 10 of the West Virginia Code. Objectives of this review were to determine the continued need for the Board, to assess the Board's compliance with the general provisions of Chapter 30 and other applicable laws, and to evaluate the Board's website for user-friendliness and transparency. The issues of this report are highlighted below.

### Frequently Used Acronyms in this Report:

PERD – Performance Evaluation and Research Division  
OASIS – Our Advanced Solution with Integrated Systems  
SAF – Society of American Foresters  
ACF – Association of Consulting Foresters

### Report Highlights:

#### **Issue 1: The Board of Registration of Foresters Is Not Needed to Protect the Public**

- PERD recommended in 2003 and 2014 reports that the Legislature consider terminating the Board of Registration Foresters because the Board primarily exists to provide title protection. West Virginia Code does not prevent any person or private company from practicing forestry, managing forests, removing products or planting trees in any manner desired.
- The Board has never received any complaint against the conduct of a licensee or for direct harm to the public, which further suggests a relatively low risk of harm to the public from this profession.
- West Virginia is 1 of 17 states that regulates the profession of forestry to some degree.
- The Legislature should consider terminating the Board of Registration of Foresters.

#### **Issue 2: The Board of Registration of Foresters Complies with Some of the General Provisions of Chapter 30 of the West Virginia Code but Improvement Is Needed**

- The Board is financially self-sufficient but has decreased its end-of-year cash balances sharply from having almost four times its annual expenditures to less than half its annual expenditures.
- The Board is exceeding its statutory authority and duties by providing continuing education services to its licensees.
- The Board should improve documentation showing adherence to its complaint process.

#### **Issue 3: The Board's Website Needs More Improvement Overall to Enhance User-Friendliness and Transparency**

- The Board's website needs substantial improvements in user-friendliness features.

- The Board’s website could also benefit from additional transparency features such as budget data, how to submit a freedom of information request, and agency publications.

## PERD Response to the Board’s Written Response

The Board provided its written response on October 31, 2024 (Appendix C). The Board indicated it would consider most of the recommendations. However, its response to the recommendation that it monitor its financial condition suggests an incomplete understanding of the recommendation. Moreover, it disagrees with PERD’s recommendation that the Legislature should consider terminating the Board. The Board provided the following arguments:

**Board Response:** *The Board’s oversight ensures that registered foresters meet state-specific standards essential to managing West Virginia’s unique forestry challenges. This role directly supports public and environmental quality by requiring professionals to have the knowledge and experience necessary for water quality, soil conservation, and wildlife habitat preservation. Given limited public awareness of forestry practices and the Board’s role, our credentialed foresters serve as a trusted source of expertise, providing landowners and the public with reliable information and guidance. Unlike the Society of American Foresters (SAF) Certified Forester (CF) credential, which is valuable but more costly and distant for professional foresters, the Board offers an accessible, affordable pathway for local forestry professionals. Our regulation benefits landowners by ensuring they have access to qualified services, including timber sales, forest conservation, and emerging opportunities like carbon credits.*

**PERD’s Evaluation:** As stated throughout this review, West Virginia Code allows any person or private company to practice forestry, manage forests, remove products, or plant trees in any manner desired. The only restriction is the person or private company cannot assume or advertise any title or description that gives the impression the person or private company is registered with the Board. This reveals that the Board primarily exists to provide title protection to its members. Currently, landowners can choose to manage or harvest their land without any interaction or assistance from an individual providing forestry services. Furthermore, if a landowner employs an individual for forestry services, that individual by law could provide forestry services with or without being registered by the Board. While the Board does evaluate the credentials of its registered foresters, the Board’s response does not consider the possibility that landowners will also evaluate foresters’ credentials without the Board’s assistance. In addition, what is currently achieved by the Board can be achieved without the Board if foresters are required to have the national credential from the Society of American Foresters.

**Board Response:** *The low number of complaints reflects our effective oversight and proactive engagement, rather than a lack of need.*

**PERD’s Evaluation:** PERD reaffirms the understanding that the low number of complaints and the nature of the complaints indicate that the risk of harm to the public is relatively low, and title protection is the primary function of the Board.

**Board’s Response:** *While we recognize the importance of financial stability and will consider responsible fee adjustments to build cash reserves, it is important to note that the Board operates at no cost to state citizens. In light of the comment about continuing education not being part of the code, we will explore new ways to*



*promote the West Virginia Board of Registration for Foresters (WVBORF) and its mission, reaching out to foresters and woodland owners to enhance understanding of the Board's role.*

**PERD's Evaluation:** This review recommends the Board monitor its financial condition. This can be done by examining fee adjustments as well as reducing expenses. PERD found the recommendation necessary because the Board's end-of-year cash balance as of FY 2024 has declined to 41 percent of annual expenditures from a high of 385 percent in FY 2019. While the Board's revenues have been steady, a contributing factor to the declining cash balance is the growth in expenditures since FY 2019, and one major expense is for providing continuing education services for the Board's licensees. PERD finds that the Board should cease providing continuing education services because they exceed its statutory authority. Moreover, the Board's response states that it will seek new ways to promote the Board and its mission by reaching out to foresters and woodland owners. PERD reiterates that the Board's function is to regulate the forestry profession, not to promote the mission of the Board or find ways to reach out to foresters and woodland owners. A board's primary mission is to protect the public (§30-1-1a), not to promote itself or the profession it regulates.

## Recommendations

1. *The Performance Evaluation and Research Division recommends the Legislature consider terminating the Board of Registration of Foresters and require a national credential to distinguish qualified foresters.*
2. *The Board should carefully monitor its financial condition and take steps to maintain cash reserves that are one to two times its annual expenditures.*
3. *The Board should discontinue providing continuing education services to licensees.*
4. *The Board should reduce the risk of fraud by utilizing the State Treasurer's lockbox system and deposit all fees within 24 hours of receipt.*
5. *The Board should follow its procedural rules for receiving and resolving complaints.*
6. *The Board should retain a complete and accurate log of its communications with non-registered foresters accused of using the title and/or description.*
7. *The Board's chairperson or the chief financial officer should annually attend the orientation sessions conducted by the State Auditor as required by West Virginia Code §30-1-2a(c)(2).*
8. *The Board should add its listing in the Charleston area telephone directory as specified by West Virginia Code §30-1-12(c).*
9. *The Board should propose a rule, in accordance with West Virginia Code §30-1-24(c), to not disqualify an applicant for initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure.*

10. *The Board should consider proposing procedural rules to waive initial occupational license fees for low-income individuals and military families and/or include instructions on the initial application and its website on how to apply for the waiver.*
11. *The Board should improve the user-friendliness and transparency of its website by incorporating more of the website elements identified.*
12. *The Board should consider registering for a “.gov” domain.*

# ISSUE 1

## The Board of Registration of Foresters Is Not Needed to Protect the Public

### Issue Summary

This is a Regulatory Board Review of the West Virginia Board of Registration of Foresters (Board) as required by West Virginia Code §4-10-9. A required objective of this review is to determine if there is a need for the continuation, consolidation, or termination of the Board. The Performance Evaluation and Research Division (PERD), within the Office of the Legislative Auditor, determines that the Board is not needed because it provides minimal protection to the public, and it functions more to provide title protection for those certified by the Board. The Board's enabling statute, West Virginia Code §30-19-1(a), states that no individual may assume, use, or advertise any title or description to convey the impression that he or she is a registered forester or registered forestry technician unless the person is registered with the Board. However, W. Va. Code §30-19-1(b) allows individuals to practice forestry in West Virginia without the Board's credential. PERD has consistently determined that if regulations allow individuals to practice a profession without regulation, then harm to the public from the profession is relatively low, and the regulations serve primarily as title protection. Moreover, PERD identified national organizations that offer credentials that distinguish individuals who are formally trained in forestry. PERD also identified that most registered foresters operate in supervised positions (government and the private sector), and there is no record of this Board receiving a complaint regarding harm to the public. **Therefore, PERD recommends that the Legislature consider terminating the Board.**

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*The Performance Evaluation and Research Division (PERD), determines that the Board is not needed because it provides minimal protection to the public, and it functions more to provide title protection for those certified by the Board.*

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### The Board Serves Primarily to Enforce Title Protection

As noted in PERD's reviews in 2003 and 2014, the public is not required to consult a forester prior to managing woodlands or forests on their private property. The Board's enabling statute only restricts the use of the forester title and the use of a description that conveys the impression that one is a registered forester or registered forestry technician. The Board's enabling statute, West Virginia Code §30-19-1(a) and (b), states,

- (a) No person may use in connection with his or her name or otherwise assume, use or advertise any title or description tending to convey the impression that he or she is a registered forester or registered forestry technician unless he or she is certified in accordance with this article.

(b) Nothing contained in this article shall be construed as preventing any person, firm, partnership or corporation from practicing forestry, managing woodlands or forests, removing any products or planting trees on any land, in any manner desired.

By statute, forestry can be practiced without registration, and landowners can hire non-foresters for forestry services. This suggests that there is a low risk of harm to the public from the profession. Moreover, the primary function of the Board is to create a title that is to the benefit of those with formal training in forestry and distinguish such individuals from those who practice forestry without formal training.

### **The Board Received Three Complaints in the Last Ten Years, Two of Which Were Illegal Use of Title and the Third Was Outside the Board’s Purview**

In total, the Board received three complaints from fiscal years (FY) 2014 to 2024. The Board dismissed one as being outside its purview. The other two complaints involved the alleged use of the forester title by unregistered persons. As it relates to these three complaints, PERD identified a lack of documentation required by the Board’s complaint resolution process, which will be discussed in greater detail in Issue 2. Nevertheless, the purpose of describing these complaints is to show the infrequency of complaints and that the nature of them do not involve harm to the public. The small number of complaints is consistent with what PERD reported in 2014. At that time, the Board had received 10 complaints during fiscal years 2003 through 2013. These complaints regarded either unregistered foresters or registered foresters who were conducting surveying work without a license from the Board of Surveyors. The limited number of complaints over 22 years (less than one a year), and the lack of complaints from the public regarding direct harm suggest that title protection is the primary function of the Board, and there is low risk of harm associated with the profession.

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*The limited number of complaints over 22 years (less than one a year), and the lack of complaints from the public regarding direct harm suggest that title protection is the primary function of the Board, and there is low risk of harm associated with the profession.*

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### **National Organizations Provide Recognized Credentials for Foresters**

Two national forestry organizations, the Society of American Foresters (SAF), and the Association of Consulting Foresters (ACF), have registered members in West Virginia. The SAF has established the “Certified Forester” credential, and the ACF provides the “ACF” credential for foresters who are in the business of consulting private

forestland owners in managing their forestland and marketing forest products. The SAF requires its foresters to possess a degree in forestry or related natural resources, have at least five years of qualifying forestry experience, and pass a certification exam. The Board has similar educational requirements to be a forester but requires only two years related experience in the field of forestry. While the ACF does not require an exam, its education and experience requirements are the same as the SAF. Furthermore, both organizations require more continuing education than the Board requires. For full membership, the SAF requires 45 credit hours of continuing education during each three-year period, while the ACF requires 24 hours during each two-year cycle. The Board requires 10 hours of continuing education each year. Also, the SAF has authority to resolve complaints and impose disciplinary action.

As mentioned in PERD's 2014 report, the Board incorporates the standards set by the SAF and the Board relies on SAF standards in other areas. The Board's Code of Ethics in its procedural rules adopt the SAF standards as a base. Moreover, West Virginia Code §30-19-4(d) requires the governor to appoint board members recommended by the SAF's West Virginia Division. If the Board is terminated, the Legislature could statutorily require eligible foresters be nationally certified by either the SAF or the ACF and restrict the use of the certified forester title.

## **A Relatively Small Number of States Regulate the Forestry Profession**

Table 1 shows that 17 states, including West Virginia, regulate the profession of forestry to some degree. West Virginia's only neighboring state that regulates foresters is Maryland. The degree of regulations varies, but each of these states allows forestry activities to be conducted by those not credentialed as long as they do not claim to be a licensed or registered forester. The exemptions to conduct forestry without a credential generally involve forestry conducted by landowners on their property and individuals who conduct forestry for no remuneration. The State of New Jersey's regulations over foresters are limited to the State's various forestry programs, including its Forest Stewardship Program, which is a voluntary program for landowners who are willing to manage a qualified property in accordance with a forest stewardship plan. A forest stewardship plan must be planned and approved by a forester who is on the State's list of Approved Foresters, and the plan is designed to sustain the productivity of the forest land, its ecosystem, and its natural resources. Oklahoma's Department of Agriculture, Food and Forestry maintains a roster of licensed foresters and the list is made available by the Secretary of State upon request by the public. As in the case of West Virginia and other states, Oklahoma's law specifically states:

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*Seventeen states, including West Virginia, regulate the profession of forestry to some degree. The degree of regulations varies, but each of these states allows forestry activities to be conducted by those not credentialed as long as they do not claim to be a licensed or registered forester.*

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Nothing contained in this act shall be construed as preventing any person, firm, partnership, or corporation from practicing forestry, landscape architecture, or managing woodlands, forest, or trees, or from operating the removal of any products therefrom, or planting trees on any plat of land, in any manner desired.

It is PERD's opinion that the relatively small number of states that regulate forestry and the fact that each state allows the practice of forestry without a credential, if conducted by the landowner or not for remuneration, indicate that the risk of harm to the public is relatively low and the primary purpose of forestry regulations is title protection.

**Table 1**  
**States that Regulate Foresters**

State	Type of Regulation	Exception for Landowners or Forestry for No Remuneration
Alabama	Licensure	Yes
Arkansas	Registration	Yes
California	Licensure	Yes
Connecticut	Certification	Yes
Georgia	Registration	Yes
Maine	Licensure	Yes
Maryland	Licensure	Yes
Massachusetts	Licensure	Yes
Michigan	Registration*	Yes
Mississippi	Licensure	Yes
New Hampshire	Licensure	Yes
North Carolina	Registration**	Yes
South Carolina	Licensure	Yes
Vermont	Licensure	Yes
West Virginia	Registration	Yes
New Jersey	Lists Approved Foresters~	Yes
Oklahoma	Licensure	Yes

*It is PERD's opinion that the relatively small number of states that regulate forestry and the fact that each state allows the practice of forestry without a credential, if conducted by the landowner or not for remuneration, indicate that the risk of harm to the public is relatively low and the primary purpose of forestry regulations is title protection.*

Sources: State codes and agency websites.

\*Michigan provides for foresters who meet certain education standards to voluntarily place themselves on a register and be allowed to use the title of registered forester.

\*\*North Carolina's statute states that no one can use the title of registered forester unless they are registered with the state board. The statute does not prohibit practicing forestry if a person does not use the title of registered forester.

~New Jersey maintains a list of approved foresters who must be used in the State's forestry management programs.

## Most Foresters and Forestry Technicians Operate Under Supervision

According to data provided by the Board, most foresters and forestry technicians are employed by the state or federal government, the timber and oil and gas industries, utility providers, or consultancies. The Board’s register indicates that 81 percent of registered foresters and forestry technicians work within these industries or are employed in some capacity as an employee. Only 8 percent of registered foresters indicated self-employment. Table 2 displays the breakdown by employers. Private and public industry hiring standards provide assurance that foresters possess the skills, knowledge, and experience to fulfill their duties. It is PERD’s opinion that the large percentage of registered foresters being employed and supervised constitutes an adequate layer of protection to the public from the practice of forestry.

<b>Table 2</b>		
<b>Board of Registration of Foresters</b>		
<b>2023 Employment Type Breakdown</b>		
<b>Employment Type</b>	<b>Number</b>	<b>Percent</b>
Self-employed	25	8%
Consulting	86	28%
Federal Government	9	3%
State Government	61	20%
Forest Industry	76	25%
Oil and Gas Industry	2	1%
Land Management	4	1%
Utility	9	3%
Other (including retired and unemployed)	32	11%
<b>Total</b>	<b>304</b>	<b>100%</b>
<i>Source: PERD calculations based on board information.</i>		

*Private and public industry hiring standards provide assurance that foresters possess the skills, knowledge, and experience to fulfill their duties.*

## There Is Minimal Public Access to the Board

The Board does not have a physical office and can only be contacted by e-mail and a post office box mailing address. The Board’s website contains a telephone number; however, no one answered the telephone when PERD called during the audit, and there was no voice mail option. A 2018 report by the Post Audit Division within the Office of the Legislative Auditor identified similar difficulties in contacting the Board. The Board was responsive via email. The Board posts meeting



notices with the Secretary of State's Office and offers ways for remote public attendance, but the inability to contact the Board via telephone or a physical location indicate that the Board has accessibility issues.

## **The Board States It Is Needed to Ensure West Virginia Forest Resources Are Managed by Qualified Persons**

The Board states that individuals whose professional credentials it has vetted have access to elevated pay scales that attract individuals more qualified to manage West Virginia's forest resources. This reasoning by the Board further substantiates PERD's assertion that the Board's existence is more for the benefit of foresters than for the public's protection. The Board's powers and duties as stated in West Virginia Code §30-19-5 do not mention protecting the wages of foresters and forestry technicians. Furthermore, if the forestry credential is important to the state's forest resources, one of the national credentials can serve that same function without the existence of the Board.

The Board further states that, *"qualified professional foresters and forestry technicians are essential to ensure the health, productivity and sustainability of our forester resources and the emerging markets they promise (like carbon markets and conservation banking)."* According to West Virginia University, carbon markets and programs allow landowners to receive payment for taking certain management actions to increase the carbon stored on their land. However, the West Virginia Forestry Association noted that, when surveyed, a majority of landowners were unfamiliar with carbon programs and had significant reservations. Moreover, Senate Bill 618, introduced during the 2024 legislative session, attempted to create a carbon market in West Virginia and locate authority within the Division of Forestry, but the bill did not pass. The bill did not directly mention the Board or the use of registered foresters and forestry technicians. While registered foresters and forestry technicians may be better equipped and more knowledgeable regarding the subject, the programs are in their infancy in West Virginia. It is PERD's opinion that this potential benefit of the Board is not directly related to the statutory powers and duties of the Board, and a national credential can serve the same function.

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*The Board's powers and duties as stated in West Virginia Code §30-19-5 do not mention protecting the wages of foresters and forestry technicians. If the forestry credential is important to the state's forest resources, one of the national credentials can serve that same function without the existence of the Board.*

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## **Conclusion**

The Performance Evaluation and Research Division finds that the Board of Registration of Foresters is not necessary to protect the public from harm. The Board primarily provides title protection, and the limited number of complaints suggests there is a relatively low risk of harm to the public. A relatively small number of states regulate the profession primarily through title protection. Most foresters and forestry



technicians practice through employment and supervision that serve as a layer of protection to the public through hiring standards. National credentials exist that can serve the same function the Board provides without the existence of the Board. Finally, it is PERD's opinion that the Board's reasons for continuation, including the protection of the profession, the elevation of wages, and the presence of emerging carbon markets, do not directly come under the Board's statutory duties and authorities. **Therefore, PERD recommends the Legislature consider terminating the Board of Registration of Foresters and statutorily require a national credential to distinguish qualified foresters.**

## **Recommendation**

1. *The Performance Evaluation and Research Division recommends the Legislature consider terminating the Board of Registration of Foresters and require a national credential to distinguish qualified foresters.*



## ISSUE 2

### **The Board of Registration of Foresters Complies with Some of the General Provisions of Chapter 30 of the West Virginia Code but Improvement Is Needed**

#### **Issue Summary**

The Board complies with some of the general provisions of W. Va. Code §30-1-1, *et seq.* The Board has established continuing education requirements, it maintains a roster and register, and the Board has promulgated procedural rules for its complaint resolution process. Although the Board is financially self-sufficient, its FY 2024 end-of-year cash balance as a percentage of annual expenditures was 41 percent which is precariously low. The Board should submit an annual report to the governor and Legislature describing transactions for the preceding two years and add its contact information to the Charleston area telephone directory. The Board should also ensure that its chairperson or chief financial officer annually attends the State Auditor's Seminar on Regulatory Boards. Furthermore, the Board does not have legislative rules, as required by W. Va. Code §30-1-24(c), stipulating that the Board may not disqualify applicants from initial licensure because of a prior criminal conviction unless the conviction is for a crime that bears a rational nexus to the profession. PERD also found that the Board exceeds its statutory authority by providing continuing education services for its licensees. PERD recommends that the Board cease from providing these services.

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*The Board does not have legislative rules, as required by W. Va. Code §30-1-24(c), stipulating that the Board may not disqualify applicants from initial licensure because of a prior criminal conviction unless the conviction is for a crime that bears a rational nexus to the profession.*

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#### **The Board Complies with Some General Provisions of Chapter 30**

Chapter 30, Article 1, of the West Virginia Code identifies important provisions for the effective operation of regulatory boards. The Board is compliant with the following provisions:

- The Board's members have attended at least one orientation session during their terms (§30-1-2a(c)(3)).
- The Board has adopted an official seal (§30-1-4).
- The Board has held at least one board meeting a year (§30-1-5(a)).
- The Board is financially self-sufficient (§30-1-6(c)).

- The Board has established continuing education requirements (§30-1-7a).
- The Board has promulgated procedural rules specifying the investigation and resolution procedures for its complaints (§30-1-8(k)).
- The Board provided the public a way to attend all teleconference meetings remotely (§6-9A-3(e)(1)).
- The Board has a register of all applicants with the appropriate information specified (§30-1-12(a)).
- The Board maintains a roster of the names of all licensees in the state (§30-1-13).

The Board has not complied with the following requirements:

- The chairperson or chief financial officer did not annually attend the 2020, 2021, and 2022 orientation sessions conducted by the State Auditor as required by W. Va. Code §30-1-2a(c)(2).
- The Board did not submit an annual report to the governor and Legislature describing transactions for the preceding two years for 2022 or 2023 pursuant to W. Va. Code §30-1-12(b).
- The Board does not have its office address in the state government listings of the Charleston area telephone directory as specified by W. Va. Code §30-1-12(c).
- The Board has not promulgated legislative rules in accordance with W. Va. Code §30-1-24(b)(1) stipulating that the Board may not disqualify applicants from initial licensure because of a prior criminal conviction unless the conviction is for a crime that bears a rational nexus to the profession.

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*The Board's end-of-year cash balance as of FY 2024 has declined to 41 percent of annual expenditures from a high of 385 percent in FY 2019. This is a precariously low cash balance.*

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## **Over the Past Five Years, the Board Has Reduced Its Cash Balance to a Precariously Low Level**

Table 3 shows that the Board is financially self-sufficient as required by W. Va. Code §30-1-6(c). However, the Board's end-of-year cash balance as of FY 2024 has declined to 41 percent of annual expenditures

from a high of 385 percent in FY 2019. This is a precariously low cash balance. It is PERD's opinion that cash reserves that are from one to two times a board's annual expenditures are prudent for unexpected events. To improve its financial situation, the Board should consider measures that involve reducing expenses and/or raising fees. The Board's renewal fee has remained unchanged since 2012, and as discussed further in this issue, on average the Board's fees are lower than the other 16 states that regulate forestry.

The Board's revenues have been steady, but the growth in expenditures since FY 2019 is a contributing factor in the declining cash balance. PERD attributes most of the increase in expenditures to two expenses. First, since FY 2022, the Board has contracted with an individual to work during the legislative session to follow legislation pertaining to the Board and forestry. In FY 2022 this was an expense of \$2,000, in FY 2023 it was \$2,025, and in FY 2024 it was \$2,900. The second contributing expense was in FY 2020 and FY 2022 for continuing education services. According to FY 2019 board minutes, the Board decided to increase expenditures because of its interpretation of a 2018 finding in a report issued by the Post Audit Division of the Office of the Legislative Auditor. That review found that the Board had an ending cash balance of between three to almost five times the Board's expenses. These excess balances resulted in funds being transferred to the State General Revenue Fund in FY 2016 (\$9,417) and in FY 2017 (\$489). The Board concluded that to avoid these excess fund transfers, it would increase expenditures by offering continuing education (CE) classes. PERD questioned these expenses and requested a legal opinion concerning the Board's authority to offer such services. The Legislative Services Division within the Office of the Legislative Auditor opined that the Board lacks the statutory authority to offer CE classes. **Therefore, PERD recommends that the Board should not offer CE services since it lacks statutory authority to do so.**

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*The Board concluded that to avoid these excess fund transfers, it would increase expenditures by offering continuing education (CE) classes. The Legislative Services Division within the Office of the Legislative Auditor opined that the Board lacks the statutory authority to offer CE classes.*

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**Table 3**  
**Board of Registration of Foresters**  
**Budget Information**  
**FY 2019 through FY 2024**

<b>Fiscal Year</b>	<b>Beginning Cash Balance</b>	<b>Revenues</b>	<b>Expenditures</b>	<b>Ending Cash Balance</b>	<b>End-of-Year Cash as a Percentage of Annual Expenditures</b>
<b>2019</b>	\$53,851	\$12,550	\$13,699	\$52,702	385%
<b>2020</b>	\$52,702	\$14,560	\$24,829	\$42,433	171%
<b>2021</b>	\$42,433	\$10,305	\$17,468	\$35,270	202%
<b>2022</b>	\$35,270	\$13,060	\$18,939	\$29,391	155%
<b>2023</b>	\$29,391	\$13,900	\$21,054	\$22,237	106%
<b>2024</b>	\$22,237	\$10,525	\$23,316	\$9,445	41%
<b>Avg.</b>	<b>\$39,314</b>	<b>\$12,483</b>	<b>\$19,884</b>	<b>\$31,913</b>	<b>176%</b>
<i>Source: Our Advanced Solution with Integrated Systems (OASIS), WV-FIN-GL-151 Board Summary Report. PERD calculations of percentages.</i>					

To further assess the Board's financial status and the risk of fraud on the revenue side, PERD calculated the minimum fiscal year expected revenues for the Board by multiplying licensee fees by the number of licensees reported by the Board and compare those figures with actual revenues. As show in Table 4, PERD found that expected revenue exceeded actual revenue for fiscal years 2021 and 2024. Unless PERD can explain the difference between expected and actual revenues in those years, there is concern of fraud. A likely explanation for a shortfall between expected and actual revenues is that there were late renewals that were paid in July or some licensees paid their renewal fees on time but late in the month of June. Since the Board's renewal cycle coincides with the end of the State's fiscal year, revenues that are received late in June or in July would be deposited in July and be recorded as revenue for the new fiscal year. PERD found that most of the Board's revenues are receive in the months of May through July of the calendar year. In the case of 2021, July had the highest amount of revenue (\$4,490) received, and in 2024, July revenue (\$3,390) was second by a slight amount to June revenue (\$3,750). PERD concludes that the discrepancy of expected and actual revenues for FY 2021 and FY 2024 can be explained by the timing of revenues being received late in the fiscal year or at the beginning of the next fiscal year. Given this analysis, PERD determines the likelihood that fraud occurred on the revenue side is relatively low.

<b>Table 4</b> <b>Board of Registration of Foresters</b> <b>Expected Revenue vs. Actual Revenue</b> <b>FY 2019 through FY 2024</b>			
<b>Fiscal Year</b>	<b>Expected Revenue</b>	<b>Actual Revenue</b>	<b>Difference</b>
<b>2019</b>	\$12,385	\$12,550	\$165
<b>2020</b>	\$11,982	\$14,560	\$2,578
<b>2021</b>	\$11,900	\$10,305	(\$1,595)
<b>2022</b>	\$11,530	\$13,060	\$1,530
<b>2023</b>	\$12,340	\$13,900	\$1,560
<b>2024</b>	\$12,125	\$10,525	(\$1,600)
<b>Total</b>	<b>\$72,262</b>	<b>\$74,900</b>	<b>\$2,638</b>
<i>Sources: PERD calculations based on OASIS, WV-FIN-GL-151 report, and board information.</i>			

To assess the risk of fraud on the expenditure side, PERD calculated the percentage of expected and required expenditures for FY 2019 through FY 2024 (see Table 5). PERD determines that the risk of fraud is relatively low on the expenditure side when a board's required and expected expenditures are 90 percent or more of total annual expenditures. PERD's evaluation of the Board's expenditures shows that on average 93 percent of expenses are expected and required. However, the percentage was below 90 percent in FY 2020 and FY 2022. In such cases, PERD will conduct a detailed review of a board's expenditures in those years to further assess the risk of fraud. PERD found that expenses to host CE conferences were the reason required and expected expenditures were below 90 percent in FY 2020 and FY 2022. These CE expenses are not expected or required. If these expenses are excluded from total expenditures, the percentages of expected and required expenses would have been 96 and 100 percent in those years respectively. As previously stated, a legal opinion from the Legislative Services Division determined that the Board does not have statutory authority to offer CE classes. PERD concluded that the CE expenses were verifiable and not fraudulent, and the likelihood that fraud occurred on the expenditure side is relatively low.

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*PERD found that expected revenue exceeded actual revenue for fiscal years 2021 and 2024. A likely explanation for a shortfall between expected and actual revenues is that there were late renewals that were paid in July or some licensees paid their renewal fees on time but late in the month of June.*

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**Table 5**  
**Board of Registration of Foresters**  
**Percentage of Expected and**  
**Required Expenditures**  
**FY 2019 through FY 2024**

Fiscal Year	Percent
2019	100%
2020	84%
2021	100%
2022	80%
2023	94%
2024	100%
Avg.	93%
Source: PERD calculations based on OASIS Account Status report, WV-FIN-GL-062.	

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*PERD found that expenses to host CE conferences were the reason required and expected expenditures were below 90 percent in FY 2020 and FY 2022.*

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## **The Board Is Exceeding Its Statutory Authority and Duties by Providing Continuing Education Services to Its Licensees**

The Board co-hosted CE conferences in FY 2020 and FY 2022 with WVU Extension Service. Both conferences were open to licensees and non-licensees. The Board stated it provided the conferences to help registered foresters and forestry technicians obtain needed CE credits. In FY 2020, attendees could earn up to 5.5 hours of CE credits, and 7.0 hours in FY 2022. The Board's expenditures for the CE services were \$3,001 in FY 2020 and \$3,748 in FY 2022. As stated previously, the Board has no statutory authority to offer CE services. The Board took in no revenue for the CE conferences because, according to the Board, WVU Extension charged and collected a \$20 fee from attendees. The Board estimates that the WVU Extension collected \$2,260 in FY 2020 and \$2,670 in FY 2022.

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*The Board has no statutory authority to offer CE services.*

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## **The Board Lacks Appropriate Internal Controls and Should Consider Using the State Treasurer's Lockbox System**

The Board has one part-time employee who manages the Board's finances. Therefore, the Board cannot segregate duties for proper internal control. Segregation of duties is important because it safeguards and reduces the risk against improper use or loss of an agency's resources. The part-time employee accepts and records payments from licensees.

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*The Board cannot segregate duties for proper internal control.*

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In addition, the employee deposits revenues and is responsible for reconciling revenues. To have adequate segregation of duties, there should be controls in place that prevent one person from performing two or more control activities associated with purchasing and receiving revenue, such as authorizing transactions, receiving merchandise, receiving and depositing revenue, recording transactions, and maintaining custody of assets. As seen in Table 6, PERD found that on average the Board received 30 percent of its revenues as online payments in FY 2020 through FY 2024. This includes renewals paid for by the Division of Forestry on behalf of its employees because it represents monies not managed entirely by the one part-time employee. Table 6 shows the percentage of revenue received electronically ranged from 19 percent in FY 2021 to 43 percent in FY 2023.

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*PERD found that on average the Board received 30 percent of its revenues as online payments in FY 2020 through FY 2024.*

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<b>Table 6</b> <b>Board of Registration of Foresters</b> <b>Percent Online Revenues of All Revenues</b> <b>FY 2020 through FY 2024</b>			
<b>FY</b>	<b>All Revenues</b>	<b>Online Revenues</b>	<b>Percent</b>
<b>2020</b>	\$14,560	\$3,110	21%
<b>2021</b>	\$10,305	\$1,975	19%
<b>2022</b>	\$13,060	\$4,165	32%
<b>2023</b>	\$13,900	\$5,990	43%
<b>2024</b>	\$10,525	\$3,870	37%
<b>Average</b>			<b>30%</b>
<i>Source: PERD calculations based on OASIS report, WV-FIN-GL-151.</i>			

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*The Board reports that it makes weekly deposits and that checks are deposited within three to four business days of receipt. It is PERD's opinion that the Board is not only making itself vulnerable to loss or theft, but its process is also in conflict with W.Va. Code §12-2-2(a).*

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As an example of appropriate segregation of duties for handling cash, the State Treasurer specifies in its *Cash Receipts Handbook for West Virginia Spending Units*, “Unless otherwise authorized by the State Treasurer’s Office, an individual should not have the sole responsibility for more than one of the following cash handling components:”

- collection,
- depositing,
- disbursement, and
- reconciling.

Moreover, the Board reports that it makes weekly deposits and that checks are deposited within three to four business days of receipt. It is PERD’s opinion that the Board is not only making itself vulnerable to loss or theft, but its process is also in conflict with W.Va. Code §12-2-2(a)

which states,

*All officials and employees of the state authorized by statute to accept moneys on behalf of the state of West Virginia shall keep a daily itemized record of moneys received for deposit in the State Treasury and shall deposit **within one business day** with the State Treasurer all moneys received or collected by them for or on the behalf of the state for any purpose whatsoever. [emphasis added]*

The Board should consider utilizing the State Treasurer's Office lockbox system to minimize the handling of revenue and facilitate timely deposits of revenue. In the lockbox operation, licensees send their fees to a post office address where the State Treasurer's Office receives them, opens, sorts, images, deposits, and forwards the information to the Board. Use of the lockbox operation helps to mitigate the risk of fraud and it relieves boards with small staff of time-consuming procedures. **Therefore, PERD recommends the Board consider utilizing the State Treasurer's lockbox service.**

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*Use of the lockbox operation helps to mitigate the risk of fraud and it relieves boards with small staff of time-consuming procedures.*

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## **The Board Should Improve Documentation and Adhere to Its Complaint Resolution Process**

The Board received three complaints between FY 2014 and FY 2024. Of these complaints, one was made against a registered forester. According to the Board, this complaint involved a landowner who hired a second forester while already having an existing contract with another forester. Allegedly, the landowner did not pay the contracted forester for completed work. The Board dismissed this complaint as being outside its purview. The other two complaints were made against persons who were alleged to be using the title without being registered with the Board. According to guidance from the Board's assistant attorney general, the Board can send letters to unregistered foresters demanding they cease the use of the forester or forestry technician title and treat the complaints like those directed towards registered forestry professionals. The assistant attorney general referenced W. Va. Code §30-19-5(b)(12), which states, *"the Board can institute appropriate legal action for the enforcement of the article."*

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*The Board received three complaints between FY 2014 and FY 2024. PERD requested the documentation for the three complaints. According to the Board, it does not have copies of the letters it sent to the unregistered persons or the dates that information was sent.*

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PERD requested the documentation for the three complaints. According to the Board, it does not have copies of the letters it sent to the unregistered persons or the dates that information was sent. The Board also stated that neither person responded to the Board. The Board said one complainant reported that the unregistered person had stopped working in West Virginia. According to the Board's complaint resolution

process as described in Code of State Rules (CSR) §200-3-5, the Board is required to:

- maintain a complaint log that records the receipt of each complaint, its nature, and its disposition;
- acknowledge receipt of the complaint to the complainant and indicate:
  - if the matter will be reviewed by the Board;
  - if more information is needed; or
  - if the complaint is outside the Board’s jurisdiction;
- send a copy of the complaint by certified mail to the licensee in question and request a written comment within 30 days of the date of the correspondences or waive the right to do so;
- promptly send a copy of the licensee’s written response to the complainant; and
- cause a reasonable investigation to be conducted to determine the validity of the complaint allegations.

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*In the absence of documentation from the Board, PERD cannot assess whether the Board complied with statutory requirements in resolving complaints.*

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In the absence of documentation from the Board, PERD cannot assess whether the Board complied with statutory requirements in resolving complaints. **Therefore, PERD recommends the Board follow its procedural rules regarding complaint resolutions.**

## **The Board Needs to Promulgate Rules to Appropriately Address Applicants with Prior Criminal Convictions**

During the 2019 legislative session, Section 24 was added to the general provisions of Chapter 30, Article 1 of the West Virginia Code, to address applicants seeking initial licensure who have prior criminal convictions. West Virginia Code §30-1-24(b)(1) states:

*“Boards subjected to the requirements of this section may not disqualify an applicant from initial licensure to engage in a profession or occupation because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure.”*

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*West Virginia Code §30-1-24(c) requires that boards shall propose or amend existing legislative rules to comply with the provisions of Section 24. The Board has not complied with this requirement.*

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West Virginia Code §30-1-24(c) requires that boards shall propose or amend existing legislative rules to comply with the provisions of Section 24. The Board has not complied with this requirement. However, PERD notes that the Board’s current application does not ask applicants about criminal offenses. **The Board should propose a rule for legislative**

approval to not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession of forestry.

## The Board Does Not Advise Low-Income and Military Families that They Can Request the Initial License Fee Be Waived

During the 2019 legislative session, Section 23 was added to the general provisions of Chapter 30, Article 1 of the West Virginia Code, that originally stipulated that each board “shall waive all initial occupational licensing fees” for low-income individuals and military families. However, in 2024, House Bill 5117 passed, effective May 29, 2024, and amended the original rule-making requirement for this waiver from a “shall” to a “may” provision. The Board had not established an applicable rule prior to this change. W. Va. Code §30-1-23(c) states that individuals seeking a waiver of initial occupational licensing fees must apply to the Board “in a format prescribed by the board or licensing authority.” The Board’s current website does not include a waiver form for this provision, nor does the initial license application include language informing applicants that a fee waiver is available to low-income individuals or military families who qualify.

Furthermore, it is PERD’s experience that most boards have implemented rules to waive the initial licensing fee for military families and low-income individuals, described by §30-1-23(a)(2) as individuals “whose household adjusted gross income is below 130 percent of the federal poverty line” or “any person enrolled in a state or federal public assistance program.” The West Virginia Board of Occupational Therapy, for example, has an entire page on its website regarding the initial license fee waiver, including directions for the application process and links to two separate applications for low-income individuals and military families that are submitted with the initial license application for those seeking a waiver. The West Virginia Board of Medicine’s website also proactively communicates the existence of such waivers to initial licensees, and a legislative rule filed in 2020 explains the process for licensees to request the waiver as well as the required documentation for the two different classes. **PERD recommends that the Board consider proposing rules to waive initial occupational license fees for low-income individuals and military families and/or include instructions on the initial application and its website on how to apply for the waiver.**

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*The Board should propose a rule for legislative approval to not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession of forestry.*

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*PERD recommends that the Board consider proposing rules to waive initial occupational license fees for low-income individuals and military families and/or include instructions on the initial application and its website on how to apply for the waiver.*

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## On Average West Virginia's Fees Are Lower than Other States that Regulate Foresters

Table 7 shows the initial and renewal fees for West Virginia and the other states that regulate foresters. The initial application fee for West Virginia foresters is \$50 and the renewal fee is \$35. The State of Maryland is the only neighboring state that regulates foresters. When considered on an annual basis, West Virginia's initial fee for foresters is \$17 less than the average fee of the 16 other states, and \$38 less than the average renewal fee.

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*The State of Maryland is the only neighboring state that regulates foresters.*

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<b>Table 7</b> <b>Foresters Licensure Application and Renewal Fees</b> <b>West Virginia and Other Regulating States</b>			
State	Foresters		Renewal Cycle
	Initial	Renewal	
Alabama	\$60	\$150	Annual
Arkansas	\$70	\$30	Annual
California	\$200	\$350	Biennial
Connecticut	\$235	\$235	Biennial
Georgia	\$50	\$120	Biennial
Maine	\$70	\$70	Annual
Maryland	\$100	\$100	Biennial
Massachusetts	\$100	\$50	Annual
Michigan	\$200	\$200	Biennial
Mississippi	\$50	\$100	Biennial
New Hampshire	\$120	\$120	Biennial
New Jersey*	\$0	\$0	n/a
North Carolina	\$90	\$40	Annual
Oklahoma	\$25	\$10	Annual
South Carolina	\$180	\$130	Biennial
Vermont	\$115	\$275	Biennial
State Avg. on Annual Cycle**	\$67	\$73	
West Virginia	\$50	\$35	Annual

Sources: PERD's analysis of other states forestry regulation websites and statutes.  
 \*New Jersey does not charge fees to be on its voluntary roster or to renew.  
 \*\* To calculate the average fees on an annual basis for other states, PERD divided the fee amounts by two for states on a biennial renewal cycle to compare to West Virginia's annual renewal cycle.

## The Board Has Established Continuing Education Requirements

The Board has established continuing education requirements for foresters by rule in West Virginia CSR §200-1-10. Table 8 displays the continuing education requirements in West Virginia and the other states that regulate forestry. West Virginia foresters must complete 10 CE hours and competency activities during the year preceding the application for renewal, while the average number of annual CE hours for the other 16 states is 7.

**Table 8**  
**Foresters Continuing Education Requirements**  
**West Virginia and Other Regulating States**

State	Hours Required	Renewal Cycle
Alabama	10	Annual
Arkansas	8	Annual
California	0	Biennial
Connecticut	6	Biennial
Georgia	12	Biennial
Maine	6	Annual
Maryland	8	Biennial
Massachusetts	20	Annual
Michigan	24	Biennial
Mississippi	16	Biennial
New Hampshire	20	Biennial
New Jersey*	0	n/a
North Carolina	10	Annual
Oklahoma	0	Annual
South Carolina	20	Biennial
Vermont	24	Biennial
State Avg. on Annual Cycle**	7	
West Virginia	10	Annual

*West Virginia foresters must complete 10 CE hours and competency activities during the year preceding the application for renewal, while the average number of annual CE hours for the other 16 states is 7.*

Sources: PERD's analysis of other states' forestry regulation websites and statutes.

\*New Jersey requires annual participation in a program of professional education but does not specify the number of hours required for renewal.

\*\*To calculate the average CE hours on an annual basis for other states, PERD divided the number of CE hours by two for states on a biennial renewal cycle to compare to West Virginia's annual renewal cycle.



## Conclusion

The Board of Registration of Foresters complies with some of the general provisions of Chapter 30, Article 1, of the West Virginia Code, including establishing continuing education requirements and maintaining a roster and register. However, the Board needs to improve its financial solvency as its end-of-year cash balance for 2024 was only 41 percent of its annual expenditures. Consideration should be given to examining if expenditures can be reduced or if fees should be increased to improve its cash balance. Additionally, the Board should discontinue providing continuing education services. Moreover, the Board should use the State Treasurer's lockbox system to mitigate the risk of fraud and assist in the daily financial procedures of the office. The following recommendations are made if the Board is continued.

## Recommendations

2. *The Board should carefully monitor its financial condition and take steps to maintain cash reserves that are one to two times its annual expenditures.*
3. *The Board should discontinue providing continuing education services to licensees.*
4. *The Board should reduce the risk of fraud by utilizing the State Treasurer's lockbox system and deposit all fees within 24 hours of receipt.*
5. *The Board should follow its procedural rules for receiving and resolving complaints.*
6. *The Board should retain a complete and accurate log of its communications with non-registered foresters accused of using the title and/or description.*
7. *The Board's chairperson or the chief financial officer should annually attend the orientation sessions conducted by the State Auditor as required by West Virginia Code §30-1-2a(c)(2).*
8. *The Board should add its listing in the Charleston area telephone directory as specified by West Virginia Code §30-1-12(c).*
9. *The Board should propose a rule, in accordance with West Virginia Code §30-1-24(c), to not disqualify an applicant for*

*initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure.*

10. *The Board should consider proposing procedural rules to waive initial occupational license fees for low-income individuals and military families and/or include instructions on the initial application and its website on how to apply for the waiver.*



# ISSUE 3

## The Board’s Website Needs More Improvement Overall to Enhance User-Friendliness and Transparency

### Issue Summary

In order to actively engage with a state agency online, citizens must first be able to access and comprehend the information on government websites. Every website should include some elements, such as a search tool and contact information including the physical and email address, telephone number, and the names of administrative officials. Other elements such as social media links, and graphics may not be necessary or practical for some state agencies. Table 9 shows the Board integrates 32 percent of the checklist items in its website. This measure indicates that the Board needs to make more improvements overall in the user-friendliness and transparency of its website.

Table 9 Board of Registration of Foresters Website Evaluation Score			
Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
	Board 32%		
Source: PERD’s review of the Board of Registration of Foresters website as of May 1, 2024.			

Table 9 shows the Board integrates 32 percent of the checklist items in its website. This measure indicates that the Board needs to make more improvements overall in the user-friendliness and transparency of its website.

## The Board’s Website Needs Substantial Improvement in User-Friendliness and Needs More Improvement in Transparency

It has become common and expected that governments convey to the public what they are doing through website technology. Therefore, government websites should be designed to be user-friendly. A user-friendly website is understandable and easy to navigate from page to page. Government websites should also provide transparency of an agency’s operation to promote accountability and trust. Several organizations have developed assessment criteria to evaluate federal and state government websites for transparency and user-friendliness. The Office of the Legislative Auditor conducted a literature review on assessments of governmental websites and developed an assessment checklist to evaluate West Virginia’s state agency websites (Appendix I).

The assessment checklist lists several website elements including a search tool, public records, budget data, mission statement, an organizational chart, Freedom of Information request, agency history, and website update status. An agency can score a total of 50 points on the checklist, 18 in user-friendliness and 32 in transparency. As illustrated in Table 10, the Board's website scored a total of 16 points. This total comprises 4 points, or 22 percent, for user-friendliness and 12 points, or 38 percent, of the possible points for transparency. This means the website needs more enhancements overall. The scores further indicate that substantial improvement is needed in user-friendliness and more improvement in transparency. **The Board should consider improving the user-friendliness and transparency of its website by incorporating more of the website elements identified.**

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*The Board's website scored a total of 16 points. This total comprises 4 points, or 22 percent, for user-friendliness and 12 points, or 38 percent, of the possible points for transparency.*

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<b>Table 10</b> <b>Board of Registration of Foresters</b> <b>Website Evaluation Score</b>			
Category	Possible Points	Agency Points	Percentage
User-Friendly	18	4	22%
Transparency	32	12	38%
<b>Total</b>	<b>50</b>	<b>16</b>	<b>32%</b>
<i>Source: PERD's review of the Board of Registration of Foresters website as of May 1, 2024.</i>			

## The Board's Website Is Navigable, But Needs Additional User-Friendly Features

The Board's website is easy to navigate. The website home page displays pages relevant to licensees and the public. Furthermore, it has a link to access agency contact information and every page is linked to the agency's homepage. However, there are other checklist items the Board should consider incorporating, such as: site functionality, a search box on every page, an FAQ section, and feedback options. According to the Flesch-Kincaid Reading Test, the average readability of the website pages does not meet the recommended 7<sup>th</sup> grade level for readability. The pages range from an 8<sup>th</sup> grade level to a 17<sup>th</sup> grade level for readability.

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*There are checklist items the Board should consider incorporating, such as: site functionality, a search box on every page, an FAQ section, and feedback options.*

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### User-Friendly Considerations

Although some items may not be practical for the Board, the following are attributes that should be considered to improve user-friendliness:

- **Search tool** – A search tool, preferably on every page.
- **FAQ Section** – A help link that allows users to access the agency’s most frequently asked questions and responses.
- **Foreign Language Accessibility** – A link to translate all webpages into languages other than English.
- **Site Functionality** – Sans serif font with buttons to adjust the font size and resizing the text should not distort site graphics or text.
- **Feedback Options** – A page where users can voluntarily submit feedback about the website or a particular section of the website.
- **Social Media Links** –Buttons that allow users to post an agency’s content to social media pages such as Facebook and Twitter.
- **RSS Feeds** – RSS stands for “Really Simple Syndication” and allows subscribers to receive regularly updated work (i.e., blog posts, news stories, audio/video, etc.) in a standardized format.

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*The Board’s website contains important transparency features including its email address, telephone number, names of the board officers, contact information for the board treasurer and administrative assistant, and public records such as statutes, rules, and meeting minutes.*

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## **The Website Has Several Transparency Features but Some Improvements Can Be Made**

A website that is transparent should promote accountability and provide information for citizens about how well the Board is performing, as well as encouraging public participation. The Board’s website contains important transparency features including its email address, telephone number, names of the board officers, contact information for the board treasurer and administrative assistant, and public records such as statutes, rules, and meeting minutes. Moreover, the Board’s website displays the Board’s mission, and provides links for associated organizations in the forestry industry. However, the Board should consider implementing several checklist items listed below.

### **Transparency Considerations**

The Board should consider providing additional elements to the website to improve its transparency. The following are attributes that could be beneficial:

- **FOIA Information** – Information on how to submit a FOIA request, ideally with an online submission form.
- **Privacy Policy** – A clear explanation of the agency/State’s online privacy policy.

- **Agency History** –A page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.
- **Performance measures/outcomes** – A page linked to the homepage explaining the agency’s performance measures and outcomes.
- **Website Updates** –Website update status on screen and ideally for every page.

## The Board’s Website Is Not Identifiable as a Government Website

Government websites should be easily identifiable. The current domain is hosted by the West Virginia Association of Licensing Boards, a non-governmental organization that does not have jurisdiction over any board. Therefore, the Board’s website is a “.com” domain and not “.gov”, making it harder to identify as a government website. The United States General Services Administration’s DotGov Program makes the “.gov” domain available to US-based government organizations. The DotGov Program works to recommend security best practices so that users have confidence in a secure site. **The Board should consider registering for a “.gov” domain.**

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*Therefore, the Board’s website is a “.com” domain and not “.gov”, making it harder to identify as a government website.*

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## Conclusion

The Performance Evaluation and Research Division finds that more improvements are needed to the Board’s website overall. The website can benefit from incorporating several common features. The Board has pertinent public information on its website including its contact information, rules, state code, board members, upcoming meetings, and a complaint form. However, providing website users with additional elements and capabilities, as suggested in the report, would increase user-friendliness and transparency.

## Recommendations

11. *The Board should improve the user-friendliness and transparency of its website by incorporating more of the website elements identified.*
12. *The Board should consider registering for a “.gov” domain.*

## Appendix A Transmittal Letter

### WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

1900 Kanawha Blvd. East  
Building 1, Room W-314  
Charleston, WV 25305-0610  
(304) 347-4890



John Sylvia  
Director

October 23, 2024

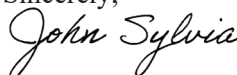
David McGill, Secretary  
Board of Registration of Foresters  
P.O. Box 1032  
Ripley, WV 25271

Dear Mr. McGill:

This is to transmit a draft copy of the Regulatory Board Review of the Board of Registration of Foresters. This report is tentatively scheduled to be presented during the November 10-12, 2024, interim meeting of the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting from October 29-30, 2024. Please notify us to schedule an exact time. In addition, we will need your written response by noon on Friday, November 1, 2024, for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, November 7, 2024, to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, PERD advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,  
  
John Sylvia

Enclosure



## Appendix B

### Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the Board of Registration of Foresters (Board) as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the West Virginia Code, as amended. The purpose of the Board, as established in West Virginia Code §30-19-1 et seq., is to protect the public through its license process, and to be the regulatory and disciplinary body for foresters throughout the state.

#### Objectives

The objectives of this review are to determine if the Board should be continued, consolidated, or terminated, and if conditions warrant a change in the degree of regulations. In addition, this review is intended to assess the Board's compliance with the general provisions of Chapter 30, Article 1 of the West Virginia Code, the Board's enabling statute §30-19-1 et seq., and other applicable rules and laws. The third objective is to assess the Board's website for user-friendliness and transparency.

#### Scope

The evaluation includes a review of the Board's internal controls, policies and procedures, meeting minutes, complaint files from FY 2014 through FY 2024, complaint-resolution process, disciplinary procedures and actions, revenues and expenditures for the period of FY 2019 through FY 2024, continuing education requirements, the Board's compliance with the general statutory provisions (W. Va. Code §30-1-1 et seq.) for regulatory boards and other applicable laws, and key features of the Board's website.

#### Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. Testimonial evidence gathered for this review through correspondence with the Board's staff or other agencies was confirmed by written statements and in some cases by corroborating evidence. The information gathered and audit procedures are described below.

PERD collected and analyzed the Board's complaint files, meeting minutes, annual reports, budget information, procedures for investigating and resolving complaints, and continuing education. Information was also obtained from the State Auditor's Office and the Secretary of State's Office. The information was gathered to assess the Board's compliance with West Virginia Code §30-1-1 et seq., West Virginia Code §6-9A-1 et seq., as well as the Board's enabling statute, West Virginia Code §30-19-1 et seq. Some information was also used as supporting evidence to determine the sufficiency and appropriateness of the overall evidence.

PERD compared the Board's actual revenues to expected revenues to assess the risk of fraud, and to obtain reasonable assurance that revenue figures were sufficient and appropriate. Expected revenues were approximated by applying license fees to the number of licensees for the period of FY 2019 through FY 2024. PERD found that although the number of licensees was consistent during the time period, expected revenue exceeded actual revenue for fiscal years 2021 and 2024. Therefore, a more detailed review of the Board's



revenue was required to determine why the Board's actual revenues were less than expected and if fraud occurred. Further analysis of Board deposits showed July 2021 had the highest amount of revenue (\$4,490) received, and in 2024, July revenue (\$3,390) was second by a slight amount to June revenue (\$3,750). PERD concludes that the discrepancy of expected and actual revenues for FY 2021 and FY 2024 can be explained by the timing of revenues being received late in the fiscal year or at the beginning of the next fiscal year. Given this analysis, PERD determines the likelihood that fraud occurred on the revenue side is relatively low and would not affect the audit objectives, and actual revenues were sufficient and appropriate.

PERD also tested the Board's expenditures for FY 2019 through FY 2024 to assess the risk of fraud on the expenditure side. The test involved determining if required and expected expenditures were at least 90 percent of total expenditures. Required and expected expenditures include such items as salaries and benefits, rent and utilities, board member per diem payments, travel reimbursement, and insurance. PERD determined that during the scope of the review, required and expected expenses were between 76 and 100 percent of total expenditures. These percentages did not give reasonable assurance that the risk of fraud on the expenditure side was low. To provide reasonable assurance that fraud did not occur, PERD sought to identify the non-required and non-expected expenses that led to a ratio less than 90 percent. PERD identified the main expenses to be those related to the Board providing continuing education services for licensees. PERD determined that the expenditures were likely legitimate; however, the audit team questioned the Board's authority to provide these services.

PERD sought a legal opinion from the Legislative Services Division within the Office of the Legislative Auditor to determine if the Board has the authority to provide continuing education services to licensees and to charge fees for the same. The legal opinion concluded that the Board does not have explicit or implied legal authority to provide continuing education or fees for the same.

In order to evaluate state agency websites, PERD conducted a literature review of government website studies, reviewed top-ranked government websites, and reviewed the work of groups that rate government websites in order to establish a master list of essential website elements. The Brookings Institute's "2008 State and Federal E-Government in the United States," and the Rutgers University's 2008 "U.S. States E-Governance Survey (2008): An Assessment of State Websites," helped identify the top ranked states in e-government. PERD identified three states (Indiana, Maine, and Massachusetts) that were ranked in the top 10 in both studies and reviewed all 3 states' main portals for trends and common elements in transparency and open government. PERD also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be considered for state websites to increase their transparency and e-governance. It is understood that not every item listed in the master list needs to be found in a department or agency website because some of the technology may not be practical or useful for some state agencies. Therefore, PERD compared the Board's website to the established criteria for user-friendliness and transparency so that the Board can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

The Office of the Legislative Auditor reviews the statewide single audit and the Division of Highways financial audit annually with regards to any issues related to the State's financial system known as the West Virginia Our Advanced Solution with Integrated Systems (OASIS). The legislative auditor's staff requests and reviews on a quarterly basis any external or internal audit of OASIS. In addition, through its numerous audits, the Office of the Legislative Auditor continuously tests the OASIS financial information. Also, at the start of each audit, PERD asks audited agencies if they have encountered any issues of accuracy with OASIS data. Based on these actions, along with the audit tests conducted on audited agencies, it is our



professional judgement that the information in OASIS is reasonably accurate for auditing purposes under the 2018 Government Auditing Standards (Yellowbook). However, in no manner should this statement be construed as a statement that 100 percent of the information in OASIS is accurate.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



## Appendix C

### Agency Response



WEST VIRGINIA STATE BOARD OF REGISTRATION FOR FORESTERS

PO Box 1032

Ripley, WV 25271

Ph. 304-415-3952

e-mail: [wvborf@gmail.com](mailto:wvborf@gmail.com)

October 31, 2024

#### **Joint Committee on Government Organization**

**Attn: Mr. John Sylvia**

**Dear Mr. Sylvia,**

The West Virginia Board of Registration of Foresters submits this response to the audit's findings, emphasizing our essential role in protecting landowners, the public, and West Virginia's natural resources. We address the audit's three primary issues below:

#### **Issue 1: Necessity of the Board in Protecting the Public**

The Board's oversight ensures that registered foresters meet state-specific standards essential to managing West Virginia's unique forestry challenges. This role directly supports public and environmental quality by requiring professionals to have the knowledge and experience necessary for water quality, soil conservation, and wildlife habitat preservation. Given limited public awareness of forestry practices and the Board's role, our credentialed foresters serve as a trusted source of expertise, providing landowners and the public with reliable information and guidance. Unlike the Society of American Foresters (SAF) Certified Forester (CF) credential, which is valuable but more costly and distant for professional foresters, the Board offers an accessible, affordable pathway for local forestry professionals. Our regulation benefits landowners by ensuring they have access to qualified services, including timber sales, forest conservation, and emerging opportunities like carbon credits. The low number of complaints reflects our effective oversight and proactive engagement, rather than a lack of need.

#### **Issue 2: Improvements in Compliance and Financial Solvency**

While we recognize the importance of financial stability and will consider responsible fee adjustments to build cash reserves, it is important to note that the Board operates at no cost to state citizens. In light of the comment about continuing education not being part of the code, we will explore new ways to promote the West Virginia Board of Registration for Foresters (WVBORF) and its mission, reaching out to foresters and woodland owners to enhance understanding of the Board's role. We will also consider

implementing the State Treasurer's lockbox system to strengthen financial procedures, adopt procedural improvements for complaint documentation, and address recommendations related to licensing applicants with prior criminal convictions and waivers for low-income and military families.

**Issue 3: Enhancing Website User-Friendliness and Transparency**

We acknowledge the need for a more user-friendly and transparent website and are committed to improvements. Planned updates include a search tool, FAQ section, contact details, and FOIA request information, along with a transition to a ".gov" domain to increase public trust. These enhancements support our goal of making credentialed foresters and information about the Board easily accessible to all West Virginians.

In conclusion, the Board's mission to credential qualified forestry professionals is critical to maintaining high standards in forestry practices across the state. Removing or altering the Board's structure would reduce the diversity of land management perspectives essential to sustainable practices, compromising the quality of forestry management in West Virginia. We appreciate the audit's constructive recommendations and remain committed to protecting the state's forest resources, supporting landowners, and upholding ethical forestry practices.

Sincerely,

A handwritten signature in blue ink, reading "Chad C. Westfall". The signature is written in a cursive, flowing style.

Chad C. Westfall  
West Virginia Board of Registration of Foresters

## Appendix I

### Website Criteria Checklist and Points System

Website Criteria Checklist and Points System			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	4
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	0
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	1
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0
Content Readability	The website should be written on a 6 <sup>th</sup> -7 <sup>th</sup> grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	8 <sup>th</sup> to 17 <sup>th</sup>
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	1
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	0
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	0
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2

Website Criteria Checklist and Points System			
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	0
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	0
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.	1 point	0
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	12
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1
Physical Address	General address of stage agency.	1 point	1
Telephone Number	Correct telephone number of state agency.	1 point	1
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	0
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	2
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	0

<b>Website Criteria Checklist and Points System</b>			
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	1
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	1
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	1
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1
Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	0
Public Records	<p>The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points:</p> <ul style="list-style-type: none"> <li>• Statutes</li> <li>• Rules and/or regulations</li> <li>• Contracts</li> <li>• Permits/licensees</li> <li>• Audits</li> <li>• Violations/disciplinary actions</li> <li>• Meeting Minutes</li> <li>• Grants</li> </ul>	2 points	2
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	1
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	1



<b>Website Criteria Checklist and Points System</b>			
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	0
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0



WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

## PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

telephone: 1-304-347-4890 | [www.wvlegislature.gov/Joint/perd.cfm](http://www.wvlegislature.gov/Joint/perd.cfm) | fax: 1- 304-347-4939