



courses; (3) State statutes and regulations regarding appraiser certification and licensure; (4) Board meeting minutes since the previous field review; (5) National Registry data and fee remittance; (6) temporary practice; (7) applications; and (9) reciprocity. We also attended the August 21<sup>st</sup> Board meeting.

### **Findings and Recommendations:**

- **The Board's regulations (*i.e.*, legislative rules) did not reference the most current version of USPAP.**

#### Findings:

Board Rules §§ 190-2-14.1 and 190-3-8.1 recognize the 2005 edition of USPAP and § 190-4-12.1 recognizes the 2004 edition of USPAP. The 2006 version, which became effective July 1, 2006, was never adopted and now the 2008 version which became effective January 1, 2008 has not been adopted. This concern was previously cited in our November 15, 2006 field review letter.

The legislature meets annually beginning in January. The Board must submit proposed changes by the preceding September. Board staff informed us that by the time the Board received our 2006 field review letter, it was too late to submit the needed changes for the 2007 legislative agenda. The Attorney General's Office and the Board Executive Director did not get the needed revisions submitted for the 2008 legislative session.

#### Recommendations:

Direct the Board to:

1. Take the necessary action to immediately update its regulations to reflect the 2008 edition of USPAP. If necessary, work with legal counsel to explore the Board's options to have this issue addressed as an emergency rulemaking measure or on a priority basis in the 2009 legislative sessions;
  2. Work with its Assistant Attorney General to develop, propose, adopt, and implement statutory and/or regulatory language that would allow incorporation of the most current edition of USPAP by reference; and
  3. Provide us a copy of the legislative rules as finally adopted.
- **The Board's regulations regarding appraiser reinstatement from Inactive status did not conform to AQB criteria.**

#### Findings:

The Board's regulations currently allow an appraiser to place his or her credential into Inactive status for an unlimited amount of time, provided the appraiser pays the annual fees. The regulations require that to reactivate a license or certification from Inactive to Active status, the appraiser must take 14 hours of continuing education. Also, any appraiser who has been on Inactive status for more than two years must take the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive credential, the credential holder must complete all continuing education that would have been required had he or she not been Inactive, including the most recent edition of the 7-hour National USPAP Update Course.

In practice, Board staff enforces the September 2005 Interpretation. We reviewed several reinstatement files and confirmed that each appraiser submitted the required hours of continuing education, including completion of the most recent 7-hour National USPAP Update Course, to comply with the AQB's criteria Interpretation.

Recommendation:

Direct the Board to initiate the necessary amendments to Board regulations to ensure compliance with AQB criteria.

- **West Virginia Regulations regarding the number of continuing education hours required to be completed in a partial year of a continuing education cycle did not conform to AQB criteria.**

Findings:

West Virginia Regulations state that credential holders issued a credential with a continuing education cycle of nine months or less are not required to complete the required continuing education for that renewal cycle. In May 2006, the AQB adopted an Interpretation to its criteria that states that credential holders who are issued a credential with a continuing education cycle of 185 days or less are not required to complete the required continuing education for that renewal cycle.

In practice, Board staff enforces the May 2006 Interpretation. We reviewed several renewal application files and confirmed that each appraiser submitted the required hours of continuing education, including completion of the most recent 7-hour National USPAP Update Course, to comply with the AQB's criteria Interpretation.

Recommendations:

Direct the Board to:

1. Initiate the process for amending the Regulations as soon as possible to ensure that the State's regulations conform with the AQB Interpretation noted above;
  2. Keep us advised about the status of the amendment as it goes through the legislative process; and
  3. Provide us a copy of the Regulations as finally adopted.
- **West Virginia's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10.**

Findings:

The complaint investigation and resolution process is well managed and effective. Complaint files were well documented, and disciplinary actions appeared consistent and equitable. The chart below provides summary statistics.

<b>Field Review Cycle</b>	<b>Complaints received</b>	<b>Complaints outstanding</b>	<b>Complaints outstanding more than 1 year</b>
November 2003	83	21	5
October 2006	76 (~ 26 per year)	22	8
August 2008	56 (~ 31 year)	25	11

West Virginia's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10E. Some complaints were not investigated and resolved in a timely manner. ASC Policy Statement 10E provides that State agencies need to process complaints on a timely basis, and that, absent special documented circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date.

At the time of our field review, there were 25 outstanding complaints. Of these, eleven had been outstanding for more than one year. Of these eleven cases, one had been outstanding for more than two years. The eleven cases that are more than one year old involve seven appraisers. At the time of our field review, four cases were scheduled for hearings, four cases were at the Assistant Attorney General's office for drafting of formal charges, and three cases were in negotiations for the final terms of a consent decree.

Recognizing that complaints were taking too long to resolve, the Standards Board began to meet monthly instead of quarterly. Also, the Executive Director has begun to submit complaints directly to the Standards Board instead of presenting them to the full Board at its quarterly meeting.

Recommendation:

Remind the Board of its responsibility to investigate and resolve complaints in a timely manner.

**Temporary Practice**Findings:

The Board's temporary practice procedures were consistent with Title XI and ASC Policy Statement 5.

Recommendation:

None.

## **Real Estate Flipping or Fraud**

### Findings:

The Board was not aware of any real estate flipping or fraud cases in West Virginia.

### Recommendation:

None.

## **National Registry**

### Findings:

West Virginia submits data monthly, pays invoices timely, and submits disciplinary actions for inclusion on the National Registry.

### Recommendation:

None.

## **Reciprocity**

### Findings:

West Virginia offers reciprocity to applicants from other jurisdictions whose requirements meet or exceed those of West Virginia. Board staff uses our Web site's license history report feature in addition to requiring letters of good standing from all States in which the reciprocal appraiser holds an active license or certification.

### Recommendation:

None.

## **Conclusion**

To bring the Program into substantial compliance with Title XI, the Board needs to address the four concerns identified in this report.