

Orange County ABC Board

Performance Audit Report



Alcoholic Beverage Control Commission
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ABC
COMMISSION
NORTH CAROLINA

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ABC

COMMISSION
NORTH CAROLINA

Alcoholic Beverage Control

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May 19, 2022

Orange County ABC Board
Patrick Burns, Chair
601 Valley Forge Rd
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Chairman Burns,

On the following pages, you will find the performance audit report conducted by the staff of the ABC Commission reviewing the operations of the Orange County ABC Board. The report consists of an overview of the objectives & background summary, financial analysis and findings, and a summary of actions recommended based upon your board's performance and related findings. Additional considerations are listed as well to provide further guidance and enhance awareness to promote ABC board success.

Please reach out if you have any questions or require assistance in implementing any of the statute requirements, Commission rules, or other recommendations included in the report. On behalf of the North Carolina ABC Commission, I thank you and your staff for your assistance and cooperation in conducting this periodic review. We appreciate the continued efforts by your board to comply with the performance standards, as well as the board's commitment to increase profitability and reduce expenses.

If we can be of assistance in the future, please do not hesitate to reach out to the Commission staff.

Respectfully,

Terrance L. Merriweather
Deputy Commissioner

cc: North Carolina Association of ABC Boards

OBJECTIVE, PURPOSE & BACKGROUND INFORMATION

In addition to regular and special financial audits, G.S. 18B-705(a) authorizes the NC ABC Commission to conduct performance audits of all local ABC boards in the state. Performance audits are examinations of existing operating policies, practices, controls, and activities to determine those areas in which there may be a need for improvement.

The audits are designed to ensure that all local ABC Boards comply with established performance standards pursuant to G.S. 18B-203(a)(20). The audit's scope addresses compliance with ABC laws and rules, store appearance, operating efficiency, solvency, and customer service.

To achieve the objectives of the audit, auditors:

- Review applicable General Statutes, ABC Commission Rules, and Administrative Policies
- Review applicable reports and studies of ABC Boards with similar size and geography
- Verify compliance with Commission and Board policies
- Verify results of previous performance audit recommendations
- Review ABC Board annual independent financial audits
- Review ABC Board reporting and documentation reports
- Visit the store(s)
- Interview key ABC Board personnel

Orange County is located on the edge of the Research Triangle Park. The county is approximately 400 square miles of farms and forests, urban centers, and small towns. It includes the municipalities of Hillsborough, Chapel Hill, and Carrboro. The 2020 U.S. Census reflects the county as having an approximate population of 149,077. *The total population has increased by approximately 11.4% since 2010.*

The 1937 Act authorized Orange County to hold an election by referendum. The referendum was held on February 3, 1959. The vote for the ABC store passed 3,322 to 2,489. A county-wide vote on September 12, 1978 authorized the sale of mixed beverages. Originally, three board members were selected to serve and in 1979 the NC General Assembly authorized Orange County ABC Board to expand to five (5) members being appointed by the Board of Orange County Commissioners.

The Orange County ABC board currently operates eight (8) retail stores. The board staffs approximately sixty (60) total employees including a general manager, assistant general manager, finance officer, administrative manager, human resources manager, warehouse personnel and sales associates. These include around forty (40) full-time and twenty (20) part-time personnel. The general manager is responsible for the daily store operations including supervising personnel, inventory management, and various retail functions. The assistant GM and finance officer provides the general manager/budget officer and the board with fiscal management, administrative support, and assist with routine operations of the ABC stores. Sales associate responsibilities include selling products, daily stocking, and floor upkeep & maintenance.

The Orange County ABC Board had its last performance audit back in 2011. This follow-up round of performance audits serves as a continuous way for the Commission to provide local boards with information and best practices that target areas for improvement.



OPERATIONAL OBSERVATIONS, FINDINGS, REQUIRED ACTIONS, & RECOMMENDATIONS

On Tuesday, April 12, 2022, ABC Board Program Analyst Quinn Woolard, visited the Orange County ABC Board and interviewed Tony DuBois (General Manager), and Ron McCoy (Finance Officer). Below is a financial analysis followed by operation observations, findings, and recommendations related to the performance audit.

FINANCIAL ANALYSIS

PROFIT PERCENTAGE TO SALES & OPERATING COST RATIO

In fiscal year (FY) 2020-2021, the Orange County ABC Board had a profit percentage to sales of 7.48%. The NC ABC Commission profit to sales standards for ABC Boards with gross sales greater than \$10M is 9.0%. The Orange County ABC Board's gross sales totaled \$27,158,053, which was a 13.02% increase over FY 2019-2020.

The operating cost ratio for the Orange County ABC Board was .63 in FY 2020-2021. The NC ABC Commission standard for ABC Boards with three or more stores is .63 or less.

Thus, the Orange County ABC Board did not meet the profitability standards yet did meet the operating cost standards set by the NC ABC Commission. Below is a chart showing gross profit on sales and income from operations for the previous two years.

	FY2020-2021	FY2019-2020
Gross Profit on Sales	\$6,727,406	\$5,988,895
Income from Operations	\$2,031,508	\$1,472,780

Factors affecting profitability and cost include:

- Surrounding areas with other ABC Boards operating stores within a fifteen to twenty (15-20) mile range of Orange County ABC: *No other ABC boards are operating in the county*; Durham County ABC board operates several stores within range; Alamance ABC has three stores within range; and two stores within Chatham County are inside range of 15-20 miles.
- An ABC Board's average cost of goods sold (COGS) is between 52% & 54% per year. The Orange County ABC Board's cost of goods sold was approximately 52.4% in FY 2020-2021.

- *Mixed beverage sales were 8.32% of total sales in FY-2021, and there are around 100+ mixed beverage permit holders.*
- Due to Orange County Living Wage participation, the board pays each employee (including part-time) no less than \$15.85 per hour which will routinely impact operating cost ratios. Temporary employees may be paid at \$15.00 per hour.

BUDGET ANALYSIS

	FY 2020-2021 Budget Projections	FY2020-2021 Actual	Variance	Variance %
Sales	\$27,114,560	\$27,158,053	\$43,493	0.1%
Total Expenditures (to include Distributions)	\$26,208,910	\$26,197,935	\$10,975	0.04%

In reviewing the budget to actual analysis of the FY2020-2021 financial audit, actual sales revenues were over the budgeted projections by 0.1%. In addition, total expenditures were under budget for the same period by 0.04%. The chart above shows the final budget to actual amounts and the appropriate positive or negative variances. *The board's FY-2021 ending net position is the strongest it has been over the last five (5) years, reflecting an increase of 21% overall since FY-2017 net position.*

DISTRIBUTIONS

G.S. 18B-805 (b) requires the board to pay from gross receipts, all expenses, excise, and rehabilitation taxes. G.S. 18B-805(c)(2) requires the board to distribute at least five percent (5%) of applicable gross receipts to law enforcement and at least seven percent (7%) for alcohol education. *Before assigning these percentage distributions, G.S. 18B-805(c)(1) requires the board to first make a minimum quarterly distribution of the 3.5% markup & relevant bottle charges to certain county/municipal recipients.* Some of these specific recipients are designated by an official local enabling act (*and thus will vary*).

In FY 2020-2021, Orange County ABC made other statutory distributions totaling \$718,700 (Orange County received \$400,000 of this amount in accordance with net profit distributions). The amount of \$6,209,454 in excise and other taxes were paid to the NC Department of Revenue (NCDOR), NC Department of Health & Human Services (NCDHHS), and the county commissioners of Orange County.

The net profits are to be distributed as follows per the current local enabling act:

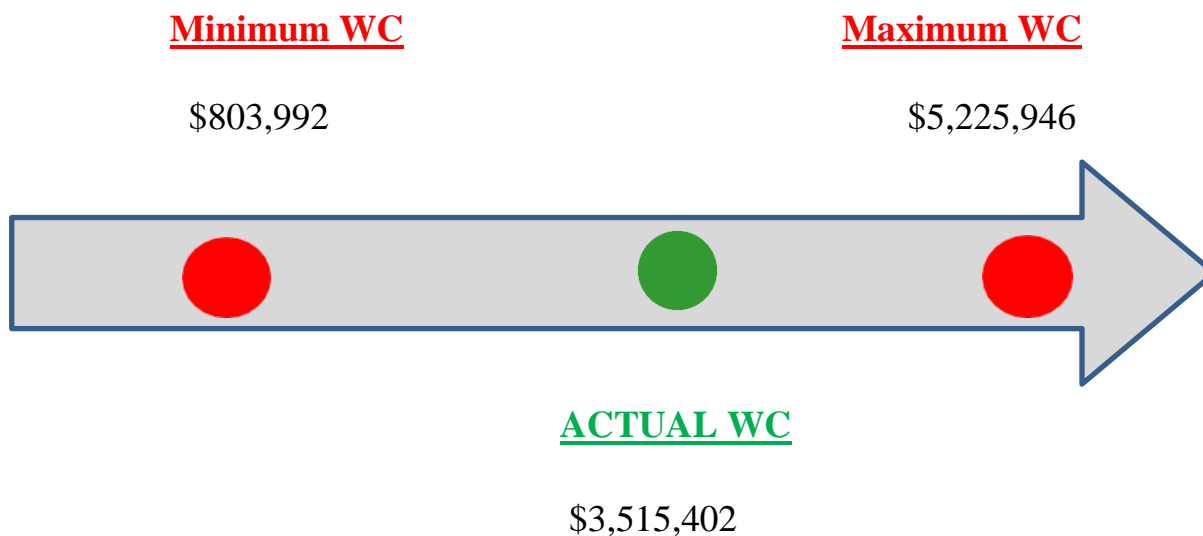
- One hundred percent (100%) of profits to Orange County General Fund

WORKING CAPITAL

G.S. 18B-805(d) allows the board to set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. The NC ABC Commission has set a working capital standard for boards with annual gross sales greater than \$1.5M yet less than \$50M an amount equal to three (3) months of sales revenue.

Based upon the existing rules, as of June 30, 2021, the Orange County ABC Board is required to maintain a minimum working capital of \$803,992 with a maximum working capital amount of \$5,225,946. The Orange County ABC Board had a working capital balance of \$3,515,402, which falls *within* the Commission requirements for this section (*).

* FY 2020-2021: Working Capital (WC) graphic



Under 18B-805(d), with approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements.

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE

The findings for personnel, operational & administrative compliance are as follows:

- The board holds regular board meetings the third Tuesday of each month at 10:00 AM, records regular meeting minutes, and provides public notification and awareness of these meetings. The minutes provide conflict of interest disclosure statements and discussion. The meeting minutes are routinely signed and kept in a binder for review. *Orange County policy only allows board members to serve a maximum of two (2) three-year terms.*
- The board has a personnel policy manual and code of ethics policy as required. The personnel manual was not previously on file with the Commission, and the board provided an updated version via their own ABC board website.
- The board adopted a budget amendment in June 2021 for increase in forecasted sales and a copy was forwarded to the Commission. The board had exceeded original budgeted FY-2021 sales in May 2021.
- The finance officer is signing checks as required per statute. Invoice records for liquor purchases reflect them as being paid just at or inside of 30 days. Taxes and distributions are paid in a routine and timely manner.
- For robust financial oversight, the finance officer and administrative manager work in tandem tracking credit card and cash sales for each store, including routine reconciliation occurs a few times each week utilizing spreadsheets for superb tracking and monitoring. The assistant GM oversees store operations and has been involved in timekeeping duties for all personnel and approves employee time as well as calculating timecards for ADP bi-weekly payroll processing. A human resource manager will be hired to directly oversee payroll going forward as the board operations increase. *The board has a very helpful financial walkthrough document that speaks to processes and personnel involved.*
- Board members conduct monthly checks and balances to ensure that cash management practices are upheld, and routinely review financial statements, monthly sales, sales to date, and miscellaneous items. The finance officer provides substantial documents for board review and consideration.
- Bank deposits are routinely made daily per review of bank statements and discussion.
- Pre-audit certificates are being routinely stamped on liquor orders as required by statute. The disbursement approval certificate statement is also present on blank checks.
- Law enforcement (LE) reports have not been submitted routinely since July 2018. The board has several different law enforcement agencies providing services to include Orange County Sheriff's Dept, Chapel Hill, Hillsborough, and Carrboro police departments. The Commission has two contracts on file and updated contracts will be necessary.
- The minimum mandatory net profit distribution to the county (as appointing authority) was calculated as being \$759,562 in the FY-2021 CPA annual audit with \$400,000 made in actual net profit distributions. The net profit distribution made to the county as appointing authority has routinely been below the minimum mandatory distribution listed on annual CPA audits.
- The recipients of alcohol education distributions are providing documentation to the board describing how the alcohol education funds awarded were utilized. The board has a hearty program offering alcohol education distributions to various recipients. Among the recipients were organizations including Carpe Diem, Chapel Hill Downtown Partner, Boomerang Youth, El Centro Hispano, El Futuro, Freedom House, and Orange County Drug Court.
- Store inventories are conducted bi-monthly with intermittent spot checks, and the warehouse is inventoried more frequently.
- The general manager verified that all board members and general manager and finance officer are bonded as required; board members' compensation amounts adhere properly to general statute requirements.

STORE APPEARANCE & INSIGHT

The findings for store insight are as follows:

- The stores visited have modern designs and layouts. A few older stores have been remodeled to include exterior painting, LED lighting upgrades, and inviting interior appearances. The board is strategic with focusing on ensuring more stores have large warehouse space to be more independent with inventory management.
- The board utilizes Smart Safe boxes in all store locations for unique cash management. This contracted service through Safe Deposit entails a \$500 monthly charge per store location. The service allows cash deposits to be made daily to the board's bank with no employee travel to any financial institution being physically required. *A courier routinely picks up the physical cash once per week from each store location.*
- The current Mebane store location will be replaced later in 2022 with a newly built more modern store. The board has worked very well with the community here on addressing concessions posed by neighboring residents and businesses. The financed debt for this new store is roughly \$2.7M.
- A new store is planned to open later in 2022 at the Southern Village Shopping Center eventually bringing the total to nine (9) operating stores. This general area features a "new urban" neighborhood and is located a few miles south of the UNC campus.
- Along with closing on the required five (5) holidays each year, the board also chooses to be closed on Martin Luther King, Jr. Day, and Memorial Day. For support of personnel management and morale consideration, employees were given an allowance of extra personal days each year to offset these other days of closure.
- Prior to COVID, the board had used a Secret Shoppers contracted service to ensure excellence at all store locations and using training opportunities to address improvements where necessary.
- Delivery service surveys have been sent, and currently there is not much interest among mixed beverage (MXB) permittee customers for the service. Due to being a Tier 3 county per NC Dept of Commerce, the board must offer delivery service to MXB customers beginning in July 2022 for Rule 15A . 1903 Delivery of MXB Permittee Orders.
- The board warehouse is a massive storage area of 13,500 square feet.
- The stores displayed the required Fetal Alcohol Syndrome poster required by G.S. 18B-808.
- North Carolina products have their own section as required by law but are also cross merchandised according to product category. Green North Carolina product tags are displayed on the shelves throughout the stores to help stimulate sales.
- Products are placed within the designated categories; premium products are found at eye-level or top shelf. Regular occurrences were found with various bottle sizes of the same products increasing appropriately from left to right. Bottles were fronted and dusted.
- Outside area surrounding the store is well-maintained and free of debris or trash.
- Security systems are in place and functional in all designated areas.
- Sales associate interactions with customers are attentive, courteous, and all are eager to meet the needs of the customers.
- A random sample of roughly 75 items was selected to determine if uniform pricing is displayed. Of those selected at one store, two items had incorrect prices and were immediately corrected.

RECOMMENDED ACTIONS (PER STATUTES OR COMMISSION RULES)

- ABC Boards are required to operate within a balanced budget each fiscal year. Budget amendments must be approved by the board before any funds are transferred between accounts and utilized, occurring at the actual point of time an adjustment of funds is necessary. This would include the point in time during the fiscal year when the board will exceed its annual forecasted sales budget. *Ensure budget amendment copies are submitted to the ABC Commission as required per NCGS 18B-702(h), to include a final reconciliation budget amendment for the fiscal year end.*
- Law enforcement reports must be submitted on the Commission's board website by the 7th of each month referencing G.S. 18B-501(f1). Reports should include as applicable the number of arrests made for ABC law violations, number of agencies assisted with ABC laws, and other metrics for ABC law contribution such as compliance checks and alcohol education classes presented.
- Due to new city or county law enforcement officials involved, new law enforcement contracts must be enacted and adopted reflecting current officials for *Orange County Sheriff's Dept, Chapel Hill, and Carrboro*. Copies must be provided to the Commission *per G.S. 18B-501(f)*.
- Over the last seven fiscal years, the actual net profit distributions made to Orange County General Fund have been below the amounts referenced on annual CPA audits. These calculated amounts are also referred to as the *Minimum Mandatory Distribution* to be made to applicable net profit distribution recipient(s). Referencing G.S. 18B-805(c)(1) for *Other Statutory Distributions*, ABC boards shall set aside the clear proceeds of 3.5% markup and additional bottle charge to be distributed as part of remaining gross receipts to recipients in the local enabling act for net profit distributions.
- Ensure all policies are submitted to the Commission for recordkeeping and review per NCAC 15A .1102 Rule. *When the board has an official delivery service policy for new Commission Rule 15A .1903 – Delivery of Mixed Beverages Permittee Orders, please forward an electronic copy of the board policy to the Commission.*
- The board must annually obtain approval from the appointing authority to adhere to their local government travel policy and annually provide the Commission a copy of this approval and latest annual travel policy per G.S. 18B-700(g2). Note: *As another option, the board can alternately move to adopt the official State of NC government travel policy referenced under G.S. 138-6. This would allow the board an option to eliminate the annual travel policy update requirement by instead formally adopting the State of NC government travel policy during an official board meeting.*
- NCAC Rule 15A .1701 requires quarterly reports be submitted for any unsaleable merchandise (breakage) and retain original copies for three (3) years. *All breakage reports should only be transmitted via email submission to the Commission; copies should not be mailed.*
- All reappointed board members (and newly appointed members) are required to complete ethics training within one (1) year of their reappointment date per G.S. 18B-706(b). Per Commission records on recent reappointment in July 2021, Board Member Williamson would need to complete the ethics training by July 2022. *Completion certificates should simply be forwarded to the Commission.*
- The board has a code of ethics policy per G.S. 18B-706, and ABC Commission has a copy. The following are needed administrative actions: *A Certificate of Accountability attestation form should be reviewed and signed by applicable personnel. A signed copy should be emailed to Commission.*

ADDITIONAL CONSIDERATIONS & GUIDANCE

- The Commission encourages all boards to track and monitor board members' current appointment dates and term expiration dates. This will increase visibility and allow for seamless board member updates with the Commission. It also allows ABC boards to easily communicate necessary reappointment dates and offer high visibility to the applicable appointing authorities involved, who may or may not be properly tracking ABC board member term expiration dates.
- The Commission encourages and requests ABC boards to routinely update the Commission's board website when applicable (*the Commission's board website referring to where boards log on monthly with password to report monthly sales*). Some key pieces of information for updating would include updated board member information such as email addresses, member appointment dates, board member compensation changes, and store location hours changes and interior and exterior pictures of new / remodeled store locations. *Alternately, ABC boards can email communicating on any applicable changes to Commission staff who are ready to assist with online updates.*
- The Board is highly encouraged to closely review financial information and monitor straightforward ways to lower any recurring expenses. *A very tangible way to lower expenses is to take full advantage of monthly special purchase allowance (SPA) liquor products that routinely sell well in the store. By purchasing liquor on sale whenever possible, this will enhance the board's posture on lowering cost of goods sold (COGS).* Another way to do this is by limiting the amount of personnel travelling to conference and convention events across the state. Other ways to try to improve expenses include requesting bids annually from various vendors to get the best rates possible on financial audits, various utilities, maintenance contracts, and *credit card processing companies.*
- ABC boards are encouraged to closely review financial statements monthly, comparing with the annual budget forecast, approving budget amendments when necessary and submitting copies to the Commission.
- Cross training opportunities for personnel should be maximized to ensure solid continuity of operations occurs for ABC boards. Also, training opportunities can work well to develop store employees for increased responsibility roles and serving to make both the routine operations and employee morale stronger.
- As a reminder, remove all faded posters and replace with new ones when applicable. Reach out to the Commission to provide fetal alcohol syndrome posters, NC Dept of Labor can provide wage & hour posters, and OSHA can provide some applicable federal posters if any are needed.
- ABC boards can explore additional training opportunities periodically available through the ABC Commission as well as partnering with other ABC boards on specific areas such as best retail and marketing practices. **Please reach out to and lean on the Commission when guidance or assistance is needed to support local ABC board mission and success!**

Program Analyst's Summary

A summary of the performance audit report to include recommendations were presented to the Orange County ABC Board on April 19, 2022. The board agrees with all recommendations as presented and will work toward compliance on the following tangible actions in the coming months: Adopting new law enforcement contracts and providing copies; Submitting law enforcement reports on Commission website each month; When financially solvent and able, routinely distributing the calculated minimum mandatory distributions to designated net profit recipients unless a capital improvement plan is in effect. ABC Commission personnel will monitor and revisit compliance progress in the coming months. The board continues to be vigilant with profitability enhancement and expense reduction while operating modern stores with a robust customer service focus.

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May 17, 2022

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The Orange County ABC Board is in receipt of the Performance audit you conducted on April 12, 2022 as well as the nine recommended actions. The Board currently sends budget amendments to the ABC Commission as well as the appointing authority upon adoption. Law enforcement reports are done monthly and submitted to the commission website in batches. The ABC Board will look into updating any aged law enforcement contracts in the new fiscal year. The ABC board sets aside 3.5% of the funds required and makes quarterly distributions based on net position. All ABC Board policies are sent to the commission and available publicly on the www.orangeabc.com website. The ABC Board will be switching to the state travel policy eliminating the need for annual approval by the appointing authority. Once passed this new policy will be sent to the commission. Breakage is being submitted to the commission per the new communication standards recently set-up by the commission. All board members are current with ethics training. The completed certificate of accountability accompanies this response. We would like to thank you for the time and attention to detail of your findings and look forward to our continued positive working relationship with the North Carolina ABC Commission.

Thank you,

Tony DuBois

General Manager
Orange County ABC Board