

RETURN RECEIPT

E-MAIL TRANSMISSION TO: averycomprehensiveservices@courtavenuesuites.com

November 17, 2021

Michael Avery
Avery Comprehensive Services
309 Court Ave, Suite 218
Des Moines, IA 50309

RE: Complaint Investigation BH-1226-072821

Dear Mr. Avery;

Enclosed please find a copy of the Complaint Investigation Report that was the result of investigation by the Division. This report and its findings will be presented during the Iowa Board of Health Substance Abuse/Program Gambling Program Licensure Committee meeting on Wednesday, **December 8, 2021 at 9:00 a.m.** The meeting will be held via teleconference. Please let me know if you would like to participate in this meeting and a phone number will be provided to you. ***Program representation is welcomed but not required.***

Should you have any questions, please feel free to contact me at Lori.Hancock-Muck@idph.iowa.gov or at (515) 204-9766.

Sincerely,



Lori Hancock-Muck
Health Facilities Officer
Division of Behavioral Health

cc: Heather Adams, Assistant Attorney General
Substance Abuse/Problem Gambling Program Licensure Committee

IOWA DEPARTMENT OF PUBLIC HEALTH
DIVISION OF BEHAVIORAL HEALTH

COMPLAINT INVESTIGATION REPORT

PROGRAM: *Avery Comprehensive Services*
309 Court Ave., Suite 218
Des Moines, Iowa 50309

LICENSED SERVICES: Adult Substance Use Disorder Assessment and
OWI Evaluation Only Services

PREVIOUS COMPLAINTS: BH-1172-092916 (previous report attached)

INVESTIGATORS: Lori Hancock-Muck, Division of Behavioral Health
Amanda McCurley, Division of Behavioral Health

COMPLAINT #: **BH-1226-072821**

DATE OF COMPLAINT: July 28, 2021

INVESTIGATION TIMELINE: July 28, 2021 to September 23, 2021

DATE OF REPORT: October 12, 2021

SUMMARY OF FINDINGS:

1. Providing licensed treatment services at a non-licensed location. (SUBSTANTIATED)

NATURE OF COMPLAINT:

On May 10, 2021, the Iowa Department of Public Health (Department) received information from Tammy Hoyman, Executive Director from Employee and Family Services, Inc. (EFR) that Gabi Twohey from Avery Comprehensive Services (Avery) had a designated workspace at the Polk County Jail to be able to provide substance use disorder assessments. The investigator contacted Mr. Avery to inquire if the information was accurate and he provided the following written response:

Avery Comprehensive Services (ACS) is not providing licensed substance use disorder treatment services (assessments) at a jail location. A county jail has offered staff space and a financial agreement to have an ACS staffer at there [sic] location about 24 months ago (that jail felt like they were being exploited and manipulated by there [sic] current licensed substance use disorder treatment service), but I declined to accept the offer. Gabi Twohey has drastically down sized the volume of assessments she does on behalf of ACS during the past two years (many judges and attorneys still request her specifically for client cases, and those are the cases she is willing to do). Any assessment conduct by Gabi T. are done on

ACS campus or in compliances [sic] with licensed substance use disorder treatment services protocols. All that being said, now that it is on my radar; expansion might be something I would consider submitting an application to do in the future.

The Department notified Mr. Avery that the matter was considered close as the Department accepted Mr. Avery's response that licensed services were not being conducted at the jail or any other location outside of the approved licensed location. The Department also shared with Mr. Avery that he should contact the Department with any questions about the license revision application should he decide to expand locations.

On July 28, 2021, Ms. Hoyman again notified the Department that Ms. Twohey was at the Polk County Jail that day. Ms. Hoyman reported her "staff saw her at the jail using the copier and heard she was seeing clients that day." Ms. Hoyman also provided the investigator with contact information for the jail administrator who she said could confirm Ms. Twohey's reason for being at the jail. Ms. Hoyman told the investigator that the jail administrator, in the past, had offered to set up a meeting between EFR and Avery to discuss Ms. Twohey seeing clients scheduled with EFR and it was announced at the last Polk County Criminal Justice Coordinating Council meeting how many jail clients Avery had referred to another treatment program.

Due to the Department receiving a second notification alleging Avery was operating licensed treatment services at a location that was not an approved licensed location, the Department determined to conduct an investigation.

INVESTIGATION AND FINDINGS:

On July 28 2021, the investigator, Lori Hancock-Muck, contacted Mr. Avery notifying him that the Department received a second notification that Ms. Twohey had been seen at the Polk County Jail and to confirm whether she was there to provide services on behalf of Avery Comprehensive Services. The following is the email correspondences the investigator had with Mr. Avery:

- July 28, 2021: Mr. Avery responded, *"I will investigate to see if this has merit. Thanks."*
- July 30, 2021: Investigator responded, *"Did you determine whether Gabi was at the jail conducting SUD services on behalf of your program?"*
- July 30, 2021: Mr. Avery responded, *"I have yet to find any information that indicates any propriety or violation occurred."*
- July 30, 2021: Investigator responded, *"Thanks, but I need to know if Gabi was at the jail on behalf of your program providing any licensed services. If she was not acting on behalf of your program, I will follow up with Gabi directly."*
- July 30, 2021, Mr. Avery responded, *"Once again in response: I have not seen, herd [sic], or been provided any information that indicated this accusation has merit. In May of 2021 the same accusation was put forth against my program and stated active assessment were being provided by my organization at the Polk County Jail, but yet the Polk County Jail had been closed-down to all outside services (attorneys, judges, most medical, health service providers.....) since March of 2020. So right now we are going turn our attention towards a [REDACTED] potential client that we were ask [sic] by the county attorney to come and consult*

- with, but he shot himself in the head and committed suicide [REDACTED] before we could get to [REDACTED]. So if you don't mind we are going to spend a little energy focusing on that! Thanks."*
- July 30, 2021: The investigator responded, *"As my investigation continues, I want to be clear in my understanding. I am receiving inconsistent messages in your response so I ask that you directly answer the following questions: Has Gabi or anyone else from Avery Comprehensive Services provided any licensed substance use disorder treatment services in the jail? (Yes or No)*
 - *If so, how many patients were served and on what days?*
 - *Do you acknowledge that Avery Comprehensive Services is only licensed to provide substance use disorder treatment services at 309 Court Avenue Suite #218 in Des Moines, Iowa? (Yes or No)*
 - *Do you acknowledge that any licensed substance use disorder treatment services provided at any other location would need to be submitted to the Department for approval? (Yes or No)"*
 - July 30, 2021: Mr. Avery responded, *"My responses are very consistent with the information that I have been able to obtain, however; I find your tone to be condescending and borderline insulting. My interpretation of the original question as posed on 07/28/2021 at 9:32am and onward implied you were making a general informational inquiry, and I responded directly and appropriately. This is the first time in our communication I see the use of the term investigation as a part of your body of communications. The tenor of the communication appears to have shifted from inquiry, to investigation, to accusation, and finally to interrogation. I will not sit idly by while any singular person or institution attempts to questions either my intellectual aptitude or the integrity of my company. All segments of this entire ongoing process seems to indicate a personal vendetta exist against either Mike. Avery, Ms. Twohey or both, therefore, under the guidelines of Chapter 155.16 (2) I am requesting a conference with department staff. I will be accompanied by legal representation. The program that is the subject of the complaint shall be given an opportunity to informally respond to the allegations contained in the complaint either in writing or through a personal interview or conference with department staff."*
 - August 3, 2021, Mr. Avery forwarded the investigator the following email correspondence between him and Ms. Twohey: *"due to the self pay web visits at polk [sic] county a fee has been applied to the agency which completes the eval; the extra fee is \$ 8.00 not including the fee for the eval; the visits at the jail primarily was to inform[sic] the inmates off the extra fee prior to the web visits"*
 - August 19, 2021: Investigator responded, *"Hi Michael. As with every complaint, the Department provides an opportunity for the licensee to informally respond to the allegations which I have provided to you through email correspondences. Once the investigation is complete, a formal report will be provided to you allowing you an additional opportunity to respond to the allegations, findings, and any recommendations. Following receipt of your program response, the report (and program response) will be added to the Substance Abuse and Problem Gambling Treatment Program Committee's*

agenda for their review. You may certainly share all correspondences and future reports with your legal representative. Please let me know if you have any additional questions. Thanks.

As the Department had made repeated attempts to provide Mr. Avery with opportunities to respond to the allegation, the Department determined to continue to conduct the investigation.

On August 23, 2021, the investigator spoke to Dillon Kraft, Sheriff Project Manager at the Polk County Jail. Mr. Kraft reported Ms. Twohey had been at the jail for the last several years and reportedly had provided on site substance use disorder evaluations for inmates prior to COVID-19. He reported Ms. Twohey had clearance for several years as she initially had a contract with the jail when she was previously employed through EFR. Mr. Kraft acknowledged since COVID-19 visitor restrictions have been in place, Ms. Twohey has been at the jail, but he could not confirm whether she was providing direct services or if she was informing inmates about added fees. The investigator also spoke to Major Williams at the jail who stated he will send the investigator the visitor log in information, but that he did not believe Ms. Twohey had been logged in since the jail opened back up (July 13, 2021) the facility for third party visitors. The investigator asked if everyone is logged as Ms. Twohey had reported in an August email to Mr. Avery that she had been in the jail and he responded, “it could happen where they didn’t log in, but it is doubtful.” Major Williams also told the investigator he would look to see if he has paperwork dating back to Ms. Twohey’s clearance (which he said she has been allowed jail access for over 10 years) to see if there is a purpose for her visits. He reported not knowing the reason for her clearance and said he did not know if she was conducting assessments on behalf of Avery’s program. Major Williams followed up with an email that noted he spoke to one of his lobby staff who recalled Ms. Twohey being on site recently. Major Williams also provided the log, which showed Ms. Twohey was at the jail on July 27, 2021 from 8:52 am to 1:57 pm (5 hours and 5 minutes) and on July 28, 2021 from 8:26 am to 11:53 am (3 hours and 27 minutes). Next to Ms. Twohey’s logged information were several inmate names along with the word, “Evaluations”. Major Williams also reported that he had checked with his team and found out that after Ms. Twohey left EFR, a new application was never obtained, and therefore a new application was being currently being completed by Ms. Twohey. Major Williams later forwarded a copy of the new application Ms. Twohey submitted on August 27, 2021. The application noted Ms. Twohey was a substance abuse counselor and listed her employer as “self-employed/Avery”. She further noted the type of admittance requested was for “substance abuse eval” and the reason for wanting to work in the Polk County Jail was noted as “complete evals for the courts”.

On September 14, 2021, investigator, Amanda McCurley, attempted to conduct a phone interview with Ms. Twohey to ask her what her logged jail activities were for July 27, 2021 and July 28, 2021. Ms. Twohey told Ms. McCurley that she was at the jail twice to “touch base with clients only.” Ms. Twohey asked, “Why this is a big deal” and questioned Ms. McCurley as to why there was an investigation.” Ms. McCurley informed her that the jail was not a licensed location for Avery Comprehensive Services, and there were allegations that she may have been providing licensed substance use

disorder treatment services within the jail. Ms. Twohey requested to have Mr. Avery present for any additional questions and that the interview be conducted in person rather than over the phone. Ms. Twohey also told Ms. McCurley that “I know (Department) were talking to the jail about me, they told me.” Ms. Twohey stated she does not want to be “bad-mouthed”. Ms. McCurley followed up with Mr. Avery in an email informing him that she had spoken to Ms. Twohey by phone briefly and that Ms. Twohey had relayed concerns about the Department’s interactions with the jail staff. Ms. McCurley provided Mr. Avery with the Bureau Chief’s contact information to report any concerns about the investigation process.

On September 16, 2021, Mr. Avery left a voice message with the Bureau Chief sharing concerns about his program being investigated. The Bureau Chief returned his call but had to leave a voice message, as Mr. Avery did not answer. The Bureau Chief left a message explaining the investigation process. It was further explained that any required written corrective action plan would not be considered a formal disciplinary action unless the program failed to submit or comply with a written corrective action plan. Mr. Avery has had no additional communications with the Department about the investigation.

CONCLUSIONS:

Allegation #1

SUBSTANTIATED

Licensee provided licensed treatment services at a location not approved by the Department.

641 IAC 155.5(1) Application information. An applicant shall submit application materials on the forms provided and in the required format. Application materials shall include, but may not be limited to:

e. The names and addresses of individuals, facilities, organizations, and legal entities with which the applicant has a contractual or affiliation agreement pertaining to licensed program services.

k. The address of each physical facility.

641 IAC 155.17(125,135) License revision. A licensee shall submit a written request to the division to revise a license at least 30 days prior to any change of address, executive director, clinical oversight staff, facility, or licensed program service. The division will determine if the requested revision can be approved or if the change is significant enough to require the submission of an application for license renewal by the licensee.

The allegation that the licensee provided licensed treatment services at a location not approved by the Department was found to be substantiated. The investigator found Avery Comprehensive Services’ staff person, Gabi Twohey, had been at the Polk County Jail on July 27, 2021 for five hours and on July 28 for three hours providing “evaluations”. This was evidenced through documentation on a jail visitor log. Further evidence was found on a Polk County Jail admittance application that Ms. Twohey signed on August 27, 2021. The application noted the purpose for Ms. Twohey’s admittance to the jail was for conducting substance abuse evaluations on behalf of Avery Comprehensive Services. Mr.

2021 Avery Comprehensive Services

Avery has adamantly denied that his program has provided any licensed substance use disorder treatment services to include substance use disorder assessments at the Polk County Jail or anywhere else outside of the licensed location. In May 2021, the Department provided written communication to Mr. Avery informing him of the process for adding locations to the existing license, and Mr. Avery has made no requests to add locations to the license.

PROGRAM RESPONSE:

Program response is attached.

RECOMMENDATIONS:

Based on the substantiated allegations above, the Division recommends that the Iowa Board of Health Substance Abuse/Problem Gambling Program Licensure Committee require Avery Comprehensive Services to submit to the Division, within 20 business days following receipt of this report, a written plan of corrective action plan in accordance with Iowa Administrative Code 641 – 155.16(4)(c) that includes the following:

1. Avery Comprehensive Services shall either submit a license revision application to add Polk County Jail to the license, or cease and desist any additional licensed substance use disorder treatment services at the Polk County jail.
2. Avery Comprehensive shall submit a corrective action plan describing the measures to be taken by the program for notifying the Department of any revisions to be made to the license to include any changes to licensed facility locations.

Once the above corrective action plan has been received and approved, the Department recommends the case be closed.

To: Iowa Department of Public Health Division of Behavioral Health

From: Michael Avery President /CEO of Avery Comprehensive Services Inc

RE: Response to Complaint Investigation Report **BH-1226-072821**.

First of all,

I denounce the investigators intentional reference to me as a female in this official report (**BH-1226-072821**). I believe it's an attempt by the investigator to be degrading, derogatory, and a not so veiled attempt at public humiliation. I have questioned the veracity of this investigation on several occasions leading up to this report, which (in real-time) appeared to upset the investigator. I believe the improper gender reference of me by the investigator in this passage shown below, as an intentional slight and a personal attack/retaliation against me for standing up for my company during the investigatory process. I find this behavior to be unacceptable and it will not be tolerated.

See highlighted excerpt from page four of the official report:

On August 23, 2021, the investigator spoke to Dillon Kraft, Sheriff Project Manager at the Polk County Jail. Mr. Kraft reported Ms. Twohey had been at the jail for the last several years and reportedly had provided on site substance use disorder evaluations for inmates prior to COVID-19. He reported Ms. Twohey had clearance for several years as she initially had a contract with the jail when she was previously employed through EFR. Mr. Kraft acknowledged since COVID-19 visitor restrictions have been in place, Ms. Twohey has been at the jail, but he could not confirm whether she was providing direct services or if she was informing inmates about added fees. The investigator also spoke to Major Williams at the jail who stated he will send the investigator the visitor log in information, but that he did not believe Ms. Twohey had been logged in since the jail opened back up (July 13, 2021) the facility for third party visitors. The investigator asked if everyone is logged as Ms. Twohey had reported in an August email to Mr. Avery that she had been in the jail and he responded, "it could happen where they didn't log in, but it is doubtful." Major Williams also told the investigator he would look to see if he has paperwork dating back to Ms. Avery's clearance (which he said she has been allowed jail access for over 10 years) to see if there is a purpose for her visits. He reported not knowing the reason for her clearance and said he did not know if she was conducting assessments on behalf of Avery's program. Major Williams followed up with an email that noted he spoke to one of his lobby staff who recalled Ms. Twohey being on site recently. Major Williams also provided the log, which showed Ms. Twohey was at the jail on July 27, 2021 from 8:52 am to 1:57 pm (5 hours and 5 minutes) and on July 28, 2021 from 8:26 am to 11:53 am (3 hours and 27 minutes). Next to Ms. Twohey's logged information were several inmate names along with the word, "Evaluations". Major Williams also reported that he had checked with his team and found out that after Ms. Twohey left EFR, a new application was never obtained, and therefore a new application was being currently being completed by Ms. Twohey. Major Williams later forwarded a copy of the new application Ms. Twohey submitted on August 27, 2021. The application noted Ms. Twohey was a substance abuse counselor and listed her employer as "self-employed/Avery". She further noted the type of admittance requested was for "substance abuse eval" and the reason for wanting to work in the Polk County Jail was noted as "complete evals for the courts".

Secondly,

Avery Comprehensive Services has no intention of providing assessment at the Polk County Jail at the present time. I find the nature of this investigation to be low on evidentiary support and very high in conjecture, supposition, assumption, and an ongoing vendetta against me and my company. I strongly disagree with the findings of this investigation as “substantiated”.

Finally,

Avery Comprehensive Services is not providing assessments at Polk County Jail, but in the future if my current stance on conducting assessments at Polk County Jail changes; I will provide notice in accordance with the Iowa Code.

641 IAC 155.5(1) Application information. An applicant shall submit application materials on the forms provided and in the required format. Application materials shall include, but may not be limited to: e. The names and addresses of individuals, facilities, organizations, and legal entities with which the applicant has a contractual or affiliation agreement pertaining to licensed program services. k. The address of each physical facility.

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Sincerely,



Michael Avery