

\*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing )  
 )  
Filing Date: January 3, 2018 )  
\_\_\_\_\_ )

Case No.: PSH-18-0001

Issued: March 28, 2018

**Administrative Judge Decision**

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled, “Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.”<sup>1</sup> For the reasons set forth below, I conclude that the Individual’s security clearance should not be restored.<sup>2</sup>

**I. BACKGROUND**

On August 15, 2017, a DOE Psychologist issued a report in which she found that the Individual met the criteria for a diagnosis of Alcohol Use Disorder, Mild, without adequate evidence of rehabilitation or reformation under the *Diagnostic and Statistical Manual of the American Psychiatric Association 5th Edition (DSM-5)*.<sup>3</sup> A Local Security Office (LSO) had requested that the DOE Psychologist evaluate the Individual after a Personnel Security Interview (PSI) of the Individual conducted by the LSO on May 16, 2017, did not resolve the security concerns raised by derogatory information concerning the Individual. Accordingly, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual, informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility for a security clearance. See 10 C.F.R. § 710.21. The Individual requested a hearing and the LSO forwarded the Individual’s request to the DOE Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge (AJ) in this

<sup>1</sup> Under the regulations, “access authorization” means an “administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). Such authorization will also be referred to in this Decision as a security clearance.

<sup>2</sup> Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.energy.gov/OHA>.

<sup>3</sup> In her report, the DOE Psychologist also opined that the Individual met the criteria for a diagnosis of Alcohol Abuse under the *Diagnostic and Statistical Manual of the American Psychiatric Association 4th Edition TR (DSM-IV-TR)*.

matter on January 5, 2018. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e) and (g), I took testimony from the Individual, her expert witness (the Expert), three of her coworkers, her sister-in-law, her former second-line supervisor, her friend, and the DOE Psychologist. *See* Transcript of Hearing, Case No. PSH-18-0001 (hereinafter cited as “Tr.”). The LSO submitted 10 exhibits, marked as Exhibits 1 through 10 (hereinafter cited as “Ex.”). The Individual submitted 36 exhibits, marked as Exhibits L through Z, and BB through VV. (The basis for the individual’s system of lettering is unclear.)

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information pertains to Guideline G (Alcohol Consumption) of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). The LSO alleges, under Guideline G, that the Individual has been diagnosed with Alcohol Use Disorder, Mild. The LSO bases this allegation on the DOE’s Psychologist’s report and the Individual’s admission during the May 16, 2017, PSI that she consumes two to three alcoholic beverages twice a month, in combination with her prescribed Hydrocodone and Alprazolam, despite being aware of the warning label cautioning the use of alcohol while taking the prescribed medication. These allegations adequately justify the LSO’s invocation of Guideline G and raise significant security concerns.

The Adjudicative Guidelines state: “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Guideline G at ¶ 21. Among those conditions set forth in the Guidelines that could raise a disqualifying security concern are “alcohol-related incidents away from work, such as driving while under the influence . . . regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder;” “diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;” “the failure to follow treatment advice once diagnosed;” and “alcohol consumption, which is not in accordance with treatment recommendations, and after a diagnosis of alcohol use disorder.” Guideline G at ¶ 22 (a), (e), (d), and (f).

## **III. REGULATORY STANDARDS**

The Administrative Judge’s role in this proceeding is to evaluate the evidence presented by the agency and the Individual, and to render a decision based on that evidence. *See* 10 C.F.R. § 710.27(a). The regulations state that:

The decision on an access authorization request is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the common defense and security and is clearly consistent with the national interest. **Any doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security.**

10 C.F.R. §§ 710.7(a) (emphasis added). In rendering this opinion, I have considered the following factors:

The nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuation or recurrence; and other relevant and material factors.

See 10 C.F.R. § 710.7(c). The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

It is well settled that Part 710 places the burden of persuasion on the individual, because it is designed to protect national security interests. See, e.g., *Personnel Security Hearing*, Case No. PSH-17-0015 at 3 (2017). This is not an easy burden for an individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance). Therefore, in order to prevail, an individual must come forward at the hearing with sufficient evidence to convincingly establish that granting or restoring her access authorization “will not endanger the common defense and security, and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d).

#### **IV. FINDINGS OF FACT**

On September 21, 2014, police found the Individual sitting in the driver's seat of a motor vehicle with the engine running. *Personnel Security Hearing*, Case No. PSH-15-0048 (October 27, 2015) (*PSH I*) at 4. The police reported that “she smelled heavily of alcohol, had slurred speech, and performed poorly on several field sobriety tests.” *PSH I* at 4. The police arrested the Individual and charged her with Driving Under the Influence (DUI).<sup>4</sup> *PSH I* at 4. The Individual self-reported this arrest to the LSO, acknowledging “that on the night of her DUI she consumed two or three beers . . . two 10 milligram (mg) Cyclobenzaprine (muscle relaxer) . . . one .5 mg Lorazepam . . . and one 5 mg Hydrocodone.” *PSH I* at 4. The LSO subsequently suspended her security clearance, and requested that she be evaluated by the DOE Psychologist. The DOE Psychologist examined the Individual on January 29 and 30, 2015, and issued a report of her findings on February 9, 2015. *PSH I* at 4. In this report the DOE Psychologist concluded that the Individual met the criteria for a diagnosis of Alcohol Abuse under *DSM-IV-TR* (and the equivalent diagnosis for Alcohol Use Disorder, Mild, under the *DSM-5*), without adequate evidence of rehabilitation or reformation. *PSH I* at 4. The DOE Psychologist further opined that this is an illness which causes, or may cause, a significant defect in the Individual's judgment or reliability.

---

<sup>4</sup> The Individual eventually pleaded guilty to a charge of Reckless Driving, as a result of this arrest.

On April 28, 2015, the LSO issued a Notification Letter to the Individual advising her that it had reliable information that created a substantial doubt regarding her eligibility to hold a security clearance, and informed her of her right to a hearing before a DOE AJ. The Individual availed herself of this opportunity, and an AJ conducted a hearing. On October 27, 2015, the AJ issued a decision, *PSHI*, in which he found that the Individual's access authorization should not be restored. *PSHI* at 1, 8. In *PSHI*, the AJ made a number of findings pertinent to the present proceeding. The AJ found that, although the Individual did not acknowledge that she had an alcohol problem, she had engaged in a number of activities in order to show that she was reformed or rehabilitated from any alcohol disorder that she might have. These activities included ceasing the consumption of alcohol on July 11, 2015, participating in counseling through her employer's Employee Assistance Program, attending Alcoholics Anonymous (AA) meetings, and commencing counseling with a private psychologist who, incidentally, testified at the Individual's first security clearance hearing that the Individual did not suffer from any alcohol disorder. *PSHI* at 4-5. The AJ reported that, during the Individual's testimony at the hearing, she "avowed that she will never again consume alcohol while taking prescription medication." *PSHI* at 5. Nevertheless, the AJ declined to restore her security clearance.

The Individual subsequently appealed the AJ's decision to the Appeals Panel under the regulations set forth at 10 C.F.R. § 710.28. On June 1, 2016, the Appeals Panel informed the Individual that it had decided to restore her access authorization. Ex. VV at 1.

In January 2017, the Individual underwent an annual evaluation that was required for her to maintain her Department of Transportation (DOT) certification to operate commercial vehicles. That certification evaluation included a medical examination conducted by a Physician's Assistant (PA) employed by a DOE contractor, and an interview and testing conducted by a Human Reliability Program (HRP) psychologist (the HRP Psychologist) employed by the DOE contractor. Ex. 6 at 3. As a result of this evaluation, the HRP Psychologist reported his concern that the Individual might be engaging in opioid medication abuse to the LSO on January 12, 2017. Ex. 5 at 1 (emphasis added).

The LSO then conducted a PSI of the Individual on May 16, 2017. During this PSI, the Individual reported that she had been prescribed Lorazepam, Flexeril, Alprazolam, and Lortab. Ex. 9 at 15-18. She reported that she had been attending a pain clinic. Ex. 9 at 17. The Individual indicated that these medications had been prescribed because of her hip replacement, panic attacks, and peripheral artery disease (PAD). Ex. 9 at 20, 23. The Individual also admitted to "occasional" alcohol use, which she described as "about" twice a month, and reported that she would typically consume two or three beers each time. Ex. 9 at 39-43, 45. The Individual denied feeling intoxicated after consuming two or three beers. Ex. 9 at 49. The Individual acknowledged that her medication bottles warn against combining alcohol with her medications; however, she denied being warned by her doctors to avoid using alcohol while she was taking her medication. Ex. 9 at 46, 51, 53, 55, 64. She eventually acknowledged that she was not supposed to mix her medications with alcohol. Ex. 9 at 53. However, she subsequently claimed that she could not recall being told that she could not mix her medications with alcohol. Ex. 9 at 64. The Individual also claimed that she uses her prescription medications as prescribed. Ex. 9 at 64, 67.

The Individual stated that she never thought she had a problem with alcohol, and denied mixing her medication with alcohol to get “an extra high.” Ex. 9 at 71-72. The Individual denied that mixing alcohol with prescription medication could be a problem. Ex. 9 at 73.

Because the PSI did not resolve the security concerns raised by the Incident Report and the Individual’s admissions in the PSI that she was continuing to combine alcohol with her medications, the LSO requested that the Individual be re-evaluated by the DOE Psychologist, who examined the Individual on August 3, 2017,<sup>5</sup> and issued a report of her findings on August 15, 2017. Ex. 6 at 1. The DOE Psychologist noted that the Individual has resumed consuming alcohol and perceives no problem with her alcohol or medication use. Ex. 6 at 3. The DOE Psychologist noted that the Individual is an extremely unreliable historian, and stated: “A hallmark of her concerning behaviors are omissions and inconsistencies in her reporting about alcohol and medication use.” Ex. 6 at 4, 13. Citing the Individual’s medical records, the DOE Psychologist further noted that the Individual continues to mix alcohol with her medications despite being repeatedly warned against this practice by her doctors. Ex. 6 at 13.<sup>6</sup>

The DOE Psychologist further noted:

Since she has not credibly demonstrated completion of the previously recommended measures for rehabilitation, the previous diagnosis of Alcohol Use Disorder still stands . . . In *DSM 5*, Alcohol Use Disorder is not in Sustained Remission unless *no* Criteria for the disorder have been met for twelve months. [The Individual] does still meet Criterion 5, Recurrent alcohol use resulting in a failure to fulfill major role obligations at work, school or home. When [the PA] removed the DOT certification he cited her rising medication doses, inconsistent reporting, *and* her previous [DUI arrest]. The loss of her DOT certification precluded her from engaging in a major function of her job: driving commercial vehicles. This prompted a change in her job title, a major change in job duties, and a move to a different building altogether. She also meets Criterion 9: Alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological condition problem that is likely to have been caused or exacerbated by alcohol. This encompasses her practice of drinking despite explicit cautions and warnings about possible drowsiness, dizziness, as well risk of overdose and death.

---

<sup>5</sup> As part of her evaluation of the Individual, the DOE Psychologist reviewed the Individual’s Personnel Security File and medical records, and administered a number of standardized psychological screening tests to the Individual. The DOE Psychologist also contacted the Individual’s former therapist, the HRP Psychologist and the PA, by telephone, to discuss the Individual. Ex. 9 at 3-4.

<sup>6</sup> The DOE Psychologist also reported that her examination of the Individual’s medical records and her conversations with a number of her medical providers and evaluators had revealed that many of them had serious concerns about her prescription medication use or abuse, and that some of her providers were concerned about the possibility that she was doctor shopping, inappropriately combining opiates and benzodiazepines, inappropriately combining CNS depressants with alcohol, and were concerned because she was running out of her medications before she was supposed to be. Ex. 6 at 5-9, 14. The Psychologist’s Report documents a number of instances where the Individual failed to inform her doctors about the medications that other medical providers had prescribed her. Ex. 6 at 14. The Psychologist further notes, “At least seven providers and/or evaluators have expressed concern about, or recommended measures to address her substance use.” Ex. 6 at 11, 14.

Since she still meets these Criteria, she is not in remission from Alcohol Use Disorder. [The Individual] continues to be in need of rehabilitation.

Ex. 6 at 15. The DOE Psychologist also concluded: “Regarding opioids, her misuse may not rise to diagnostic levels in and of itself, but again, the use of these medications in combination with alcohol raises the level of risk.” She declined to diagnose the Individual with a Substance Abuse Disorder. Ex. 6 at 15, 17. The DOE Psychologist further opined that the Individual’s reports of abstinence in 2015 “are vague and contradictory, and the duration of her counseling was far short of the recommended six months.” Ex. 6 at 16. She further updated her treatment recommendations, opining that the Individual should abstain from using alcohol for at least one year, and that:

She should engage in psychological counseling/therapy for twelve months with a licensed outpatient mental health provider who has specialized experience in substance use issues in addition to mental health issues. Her therapist should receive a copy of this report. Therapy should include a strong medication-education and alcohol-education component. She should also work with her therapist to address healthy strategies for managing life stresses and anxiety, as well as practices for compensating to the best of her ability for ADHD-related inattention and disorganization. She should attend her therapy weekly for a minimum of six months. If her therapist deems it appropriate she may, after the six months, reduce frequency to no less than every other week. Therapy should begin within a month of receiving these recommendations and last no less than twelve months. She should follow all the treatment measures her therapist recommends, including participating in a higher level of substance treatment if recommended (an Intensive Outpatient Program (IOP), for example).

Ex. 6 at 16.

On December 12, 2017, the Individual submitted her Request for a Hearing in which she generally denied the allegations set forth in the Notification Letter.

At the hearing, the Individual presented the testimony of the Expert, who testified that she is Board Certified in Assessment Psychology.<sup>7</sup> Tr. at 12. The Expert testified that she does not have any specialized training or certification in the areas of substance abuse or substance abuse treatment, other than attending workshops and seminars, and that she does not have any particular expertise or experience in evaluating individuals for substance abuse issues. Tr. at 65, 67-68. The Expert

---

<sup>7</sup> Four of the Individual’s supervisors and coworkers, her sister-in-law, and a friend also testified on her behalf at the hearing. One coworker testified that the Individual is: “very honest, very hard-working, [and] self-motivated.” Tr. at 98. Another coworker testified that the Individual is honest and a good worker. Tr. at 105. A former second-line supervisor testified that the Individual was an exceptional employee. Tr. 112-13. Another co-worker described the Individual as “a very hard worker.” Tr. at 120. The sister-in-law testified that she was a houseguest of the Individual for several months in 2017. Tr. at 132, 136. She described the Individual’s alcohol consumption as a “six-pack” over a two day weekend, but never more than three drinks in a night. Tr. at 129, 133. She also testified that the Individual is honest. Tr. at 130-131. The Individual’s friend also testified that he too was a house guest of the Individual during 2017. Tr. at 141. He testified that the Individual would consume alcohol on the weekends “occasionally.” Tr. at 142-143. He stated that he never observed the Individual become intoxicated, and that he has never observed her consume more than two drinks. Tr. at 143, 145-146. He also testified that the Individual is honest. Tr. at 144.

also testified that she only conducts evaluations of individuals, and that she does not treat patients. Tr. at 66. The Expert reported that she met with the Individual on three occasions for about 11 hours.<sup>8</sup> Tr. at 18. The Expert reported that the Individual is a poor historian, and that her inability to provide a complete and accurate history is not confined to her alcohol use and medication history. Tr. at 19, 33. She opined that the Individual does not have an Alcohol Use Disorder. Tr. at 27. The Expert noted that the DOE Psychologist relied on two of the criteria set forth in the DSM-5 in order to diagnose her with Alcohol Use Disorder, specifically Criterion 5, “recurrent alcohol use resulting in a failure to fulfill major role obligations at work, school or home,” and Criterion 9, “alcohol use is continued despite knowledge . . . of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol.” Tr. at 28. While the Expert initially conceded that the Individual met Criterion 5, she opined that the Individual does not meet Criterion 9, since the Individual, in her opinion, did not have a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol. Tr. at 28-29. The Expert testified that the Individual is aware of the potential risks posed by mixing alcohol and sedating medications. Tr. at 30-31. She noted that the DOE Psychologist is the only mental health professional who has diagnosed the Individual with Alcohol Use Disorder. Tr. at 38. She further noted that the Individual’s primary care physician (PCP) did not find that the Individual had any substance abuse issues. Tr. at 40. She testified that she read a note from the PCP (which has never been entered into the record) indicating that the PCP was not concerned about the Individual’s concurrent use of alcohol and medications. Tr. at 52-53.

The Expert, who is neither a doctor nor a pharmacist,<sup>9</sup> opined that the Individual was not mixing her medication with alcohol because she did not take the pills at the same time she drank the alcohol. Tr. at 55. She testified that the Individual informed her that she has been abstaining from alcohol use since January 1, 2018. Tr. at 59-60, 90. The Expert testified that the Individual should not use alcohol in the future, because she needs to continue using her medication. Tr. at 60-61, 63. When asked if she believes that the Individual has the capability of being totally abstinent from alcohol use, the Expert responded by stating: “Sure. I mean, most people if they set their mind to it can be abstinent.” Tr. at 61. The Expert characterized the DOE Psychologist’s treatment recommendations for the Individual as “overkill,” opining that she did not agree that the Individual would benefit from a year of weekly therapy. Tr. at 63-64. The Expert testified that the Individual does not believe that she has an alcohol problem. Tr. at 76. She further testified that the Individual understood that mixing her medication with alcohol could be fatal. Tr. at 82. The Expert admitted that she would not want the Individual to make “any life-altering decisions” while she was consuming alcohol with her medications. Tr. at 83. The Expert also admitted that it was likely that the Individual would become “high” after consuming three drinks with her medication. Tr. at 94.

---

<sup>8</sup> The Expert also testified that she reviewed a large number of documents as part of her evaluation of the Individual, including the exhibits submitted by the DOE in the present proceeding; the Individual’s pharmacy records; her personnel file; two evaluations of the Individual conducted by the DOE Psychologist (including test data and interview notes); and the exhibits submitted by the Individual in the present proceeding. Tr. at 20-22. The Expert further testified that she had only performed one additional test on the Individual: a test for “memory malingerer.” Tr. at 25.

<sup>9</sup> Tr. at 68.

The Individual testified at the hearing that she has not consumed alcohol since January 1, 2018, and plans to continue abstaining from alcohol use, although she does not believe she has, or ever had, an alcohol problem. Tr. at 160- 161, 178-179, 213. She testified that she has stopped drinking because she wants to have her clearance restored and keep her job. Tr. at 212. The Individual indicated that she has no plans to obtain further treatment or counseling for alcohol issues. She testified that, before she stopped drinking, she would use alcohol “twice a month or so.” Tr. at 161. The Individual admitted that she understood the risk of mixing her medications with alcohol. Tr. at 204. She testified that she would wait a few hours after taking her medication before she would consume alcohol. Tr. at 166, 208, 218-219. The Individual claimed that she never experienced any drowsiness or intoxication when she combined alcohol and her medications, and that she does not drink to get “a buzz going.” Tr. at 168, 205-206, 219. She testified that she has not operated a motor vehicle after consuming alcohol since her DUI arrest in 2014. Tr. at 170. The Individual testified that, even though she did not believe that she had an alcohol problem, she attended counseling and AA meetings, after the 2014 DUI arrest, in order to “be compliant.” Tr. at 172-173, 211-212. She testified that she takes Hydrocodone for pain; Alprazolam for anxiety; a medication for sleeping; Gabapentin for bone pain; and Citalopram for depression. Tr. at 174-175, 194. She testified that none of her doctors have told her she has an alcohol problem. Tr. at 177. The Individual stated that she did not believe that her intoxication on the night of her DUI arrest occurred as a result of her mixing alcohol with her medications, but rather because she took two muscle relaxant pills instead of one. Tr. at 190. She testified that she has discontinued the muscle relaxants. Tr. at 192. The DOE Counsel reminded the Individual that she had discontinued mixing alcohol and her medications prior to her previous security clearance hearing, and then asked why she resumed using alcohol with her medications after her clearance had been restored. The Individual responded by stating that she thought her “probation” was over. Tr. at 203-204.

The DOE Psychologist testified at the hearing after observing the testimony of the other witnesses. She testified that she had originally evaluated the Individual in 2015, and found that the Individual had a history of “alcohol-related hazardous behavior” and alcohol interfering with the Individual’s ability to “fully . . . perform all of her array of duties at work.” Tr. at 225-226. For those reasons, she found that the Individual met the criteria for diagnosis of Alcohol Use Disorder, Mild, under DSM-5. Tr. at 226, 276-277. The DOE Psychologist testified that she concluded that the Individual recurrently operated a motor vehicle after using alcohol in combination with her medications.<sup>10</sup> The DOE Psychologist further testified that it is physically hazardous to combine alcohol with several central nervous system depressants. Tr. at 277-278. She testified that the Individual’s suspension of her clearance resulted from her alcohol use and that caused a failure to fulfill a major role obligation at her work. Tr. at 239-241. The DOE Psychologist opined that the Individual met another DSM-5 criterion for Alcohol Use Disorder because she continued to use alcohol despite knowledge of a persistent or recurrent physical or psychological problem, likely caused or exacerbated by alcohol use. Tr. at 244. She stated that the Individual has been repeatedly cautioned

---

<sup>10</sup> Specifically, she testified that this conclusion was based upon several factors: (1) the Individual’s DUI arrest; (2) the Individual’s report that she would occasionally go to the store in the evening; (3) her observation that the Individual appeared to be equivocating and defensive during the 2015 interview after the DOE Psychologist asked her about the last time she had driven to the store after consuming alcohol and her medications; (4) her observation that the Individual was unable to be “straightforward about” how often she would drive under the influence of her medications and alcohol; (5) the Individual showed signs of defensiveness on the Substance Abuse Subtle Screening Inventory 4 (SASSI-4) test; and (6) during her previous security clearance hearing, it became obvious that the Individual had been consuming more alcohol than she had admitted. Tr. at 229-231.



against combining her medications and alcohol, by the pain clinic and on the bottles of the medications themselves. Tr. at 244. The DOE Psychologist opined that the Individual continued to use alcohol even though she “was aware that she was doing something that could cause a health problem, including the potential for overdose and death.” Tr. at 245. The DOE Psychologist opined that the Individual has not been reformed or rehabilitated from her Alcohol Use Disorder, noting that she recommended that the Individual receive 12 months of individual counseling for her Alcohol Use Disorder, and abstain from alcohol use for at least 12 months. Tr. at 246, 256-257. However, she stated that, after hearing the Individual’s testimony, she would now reduce her recommendation to six months of counseling and six months of abstinence from alcohol, provided that the Individual would be monitored for compliance. Tr. at 258. She testified that it is less likely for a recovery to succeed when the individual does not accept that she has a problem in the first place. Tr. at 248-249. The DOE Psychologist further testified that the Individual is not considered to be in remission under the DSM-5, since she has exhibited symptoms of her Alcohol Use Disorder within the past 12 months. Tr. at 255, 260. She stated that the Individual’s Alcohol Use Disorder potentially causes a significant defect in her judgment and reliability. Tr. at 256. The DOE Psychologist also noted that while no other doctors or mental health providers have diagnosed the Individual with Alcohol Use Disorder, six doctors have expressed concerns about either her medication use or her mixing her medications with alcohol. Tr. at 260-261.

After the DOE Psychologist testified, the Individual returned the Expert to the stand for redirect testimony. The Expert reiterated her opinion that the Individual does not have an Alcohol Use Disorder under DSM-5. Tr. at 288-289. The Expert testified that the DSM-5 does not allow for a diagnosis based upon “mixing alcohol and restriction medications” since “Alcohol use disorder is a problematic pattern of alcohol use, leading to clinically significant impairment or distress.” Tr. at 282. The Expert disagreed with the DOE Psychologist’s conclusion that the Individual continued to consume alcohol despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by her alcohol use, because she believes that the Individual does not have such a problem. Tr. at 283. The Expert also disagreed with the propriety of the DOE Psychologist’s use of inference in order to conclude that the Individual was operating a motor vehicle under the influence of alcohol on more than one occasion. Tr. at 285-286.

## **V. ANALYSIS**

Ignoring the warnings placed on her medications, as well as the warnings of several of her health care providers, the Individual has risked her own death by continuing to consume alcohol while using these medications.<sup>11</sup> The Individual’s alcohol use has caused recurring harm to her career by resulting in her security clearance being suspended on at least two occasions, therefore requiring her reassignment at work. Despite the risk of death, and the potential for further harm to her career, she has (until very recently) either refused, or has been unable, to refrain from using alcohol and has therefore exhibited manifestly poor judgment.<sup>12</sup> The Individual’s inability or unwillingness to

---

<sup>11</sup> On at least one occasion, the night she was arrested for DUI, her poor judgment potentially placed members of the public at risk as well.

<sup>12</sup> Moreover, by failing to honor her promise, given at her first security clearance hearing, that she would never again consume alcohol while taking prescription medication, the Individual exhibited significant defects in reliability and trustworthiness.

refrain from alcohol use indicates an inability or unwillingness to control her alcohol use, or an inability or unwillingness to meet the expectations inherent in maintaining a DOE security clearance.

The DOE Psychologist has opined that the Individual meets the criteria for Alcohol Use Disorder, Mild, set forth in the DSM-5. The DSM-5 defines Alcohol Use Disorder as “a problematic pattern of alcohol use leading to clinically significant impairment or distress.” DSM-5 at 490. The DSM-5 sets forth a series of 11 diagnostic criteria for the Alcohol Use Disorder. In order to qualify for this diagnosis, at least two of these criteria must be present. The DOE Psychologist found that three of these criteria have been met: Criterion 5 (“Recurrent alcohol use resulting in a failure to fulfill major role obligations at work . . .); Criterion 8 (“Recurrent alcohol use in situations in which it is physically hazardous”); and Criterion 9 (“Alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol.”). DSM-5 at 490-491. The Individual has submitted the testimony of the Expert, who contends that the Individual cannot properly be diagnosed with Alcohol Use Disorder under DSM-5, since neither Criterion 8 nor Criterion 9 applies to the Individual. I find the opinion of the DOE Psychologist to be more persuasive and better supported by the record.

I agree with the DOE Psychologist’s opinion that the Individual has met DSM-5’s Criterion 8, which applies to an individual who has engaged in “recurrent alcohol use in situations in which it is physically hazardous.” DSM-5 at 491. Clearly, the Individual’s recurrent use of alcohol in combination with a number of medications that depress the central nervous system is a dangerous and potentially life-threatening behavior. The Expert contended that Criterion 8 does not apply because there is no evidence that the Individual recurrently operated a motor vehicle after consuming alcohol. The Expert also claimed that the Individual’s mixing of medications with alcohol does not meet Criterion 8 since “the criteria says physically hazardous situations like driving.” Tr. at 73. While I agree with the Expert’s conclusion that the record lacks sufficient evidence to support the DOE Psychologist’s conclusion that the Individual recurrently operated a motor vehicle after consuming alcohol, I find the Expert’s interpretation of Criterion 8 to be deeply flawed. While previous versions of the DSM cited driving or the operation of machinery as specific examples of the kinds of activities that are to be considered physically hazardous, in no way did they limit the definition of that term to those two activities. More importantly, DSM-5 omits those references in the current Criterion 8, which currently speaks only of “recurrent alcohol use in situations in which it is physically dangerous.” DSM-5 at 491.

I likewise agree with the DOE Psychologist’s opinion that the Individual has met DSM-5’s Criterion 9, which applies when an individual’s “alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol.” DSM-5 at 491. The Expert testified that she is unaware that the Individual had a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol. However, the record shows that the Individual does have a persistent physical problem that can be exacerbated by alcohol, potentially to a fatal extent: central nervous system depression resulting from four medications she takes on a regular basis. For this reason, I find the DOE Psychologist’s opinion that Criterion 9 applies to the Individual to be persuasive.

---

I have found that the DOE Psychologist has convincingly shown that the Individual has been appropriately diagnosed with Alcohol Use Disorder under DSM-5. Accordingly, the next question is whether the Individual has mitigated the security concerns raised by this diagnosis. I note that the Individual has steadfastly denied that she any problem with alcohol, and is therefore not presently receiving any treatment for her condition. (As noted, the Individual did obtain counseling and attend AA meetings in the past, mainly prior to having her security clearance restored on June 1, 2016.) Despite her apparently firm conviction that she does not have an alcohol problem, the Individual testified that she has abstained from using alcohol since January 1, 2018, exactly two months prior to the date of the hearing. The Individual's two months of abstinence, without any further counseling or recognition that she has a problem, is clearly not sufficient to show that she is reformed or rehabilitated. This is especially true in light of her history, where she promised, under oath, that she would never mix alcohol with her medications in the future. Moreover, the Individual's two months of abstinence, without any further treatment, falls far short of the DOE Psychologist's treatment recommendations at the hearing of six months of abstinence and six months of counseling for the Individual.

Accordingly, I find that the security concerns raised under Guideline G, by the DOE Psychologist's diagnosis of the Individual with Alcohol Use Disorder, Mild, under the DSM-5 have not been resolved.<sup>13</sup>

## VI. CONCLUSION

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G. After considering all the evidence, both favorable and unfavorable, in a common sense manner, I find that Individual has not sufficiently mitigated all of the security concerns raised under Guideline G. Accordingly, the Individual has not demonstrated that restoring her security clearance would not endanger the common defense and would not be clearly consistent with the national interest. Therefore, the Individual's security clearance should not be restored at this time. The Individual

---

<sup>13</sup> Guideline G sets forth four conditions which can mitigate security concerns arising from an individual's maladaptive alcohol use, none of which pertain to the present case or provide mitigation of the security concerns raised by the Individual's Alcohol Use Disorder arising under Guideline G. Guideline G at § 23. Section 23(a) provides that security concerns arising from alcohol use may be mitigated if "so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment." Clearly, the passage of time alone is not sufficient enough to mitigate the security concerns raised by the Individual's Alcohol Use Disorder, since the Individual's last use of alcohol consumption occurred a little over two months prior to the hearing. Nor was the Individual's misuse of alcohol an infrequent behavior, since it recurred once or twice a month by the Individual's estimation. Section 23(b) of the Guidelines provides that security concerns arising from alcohol use may be mitigated if "the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations." In the present case, the Individual has clearly not acknowledged her pattern of maladaptive alcohol use. Section 23(c) of the Guidelines provides that security concerns arising from alcohol use may be mitigated if "the individual is a current employee who is participating in a counseling or treatment program, *has no history of previous treatment and relapse*, and is making satisfactory progress." (emphasis added). The Individual in this case has a history of previous treatment or relapse, and is not participating in a counseling or treatment program. Section 23(d) of the Guidelines provides mitigation where "the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations." That section is not relevant to the present case.

may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine  
Administrative Judge  
Office of Hearings and Appeals