*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	)	
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Filing Date: March 21, 2024	)	Case No.: PSH-24-0082
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	)	

Issued: July 26, 2024

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (hereinafter referred to as "the Individual") to hold an access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, entitled "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material."[1] As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. Background and Findings of Fact

The Individual is employed by a DOE contractor in a position that requires her to hold a security clearance. In April 2023, the Individual contacted Occupational Medicine (Occ Med) at her DOE site to discuss obtaining permission to take her Oxycodone prescription during working hours for her chronic pain condition. Exhibit (Ex.) 8 at 38.[2] The Individual met with an Occ Med psychologist, who ultimately advised that the Individual seek out the opinion of a pain management specialist (Pain Specialist). *Id.* at 39. The Pain Specialist recommended minimizing the Individual's opioid use as she was "on a pretty high dose of Oxycodone," a dosage that he would not provide. Ex. 8 at 44.

In September 2023, the Individual completed a Letter of Interrogatory (LOI) in which she stated that she "misused" her Oxycodone in March 2023 by taking one extra tablet one half hour earlier than prescribed over five or six days. Ex. 7 at 29. She also stated that she had never "been ordered,

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[1] Access authorization is defined as "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 be referred to variously in this Decision as access authorization or security clearance.

[2] The exhibits submitted by DOE were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by DOE.

advised, or asked to seek counseling or treatment as a result of [her] use of drugs or controlled substances." *Id*. at 31.

In November 2023, the Individual underwent an evaluation with a DOE consultant-psychologist (DOE Psychologist), after which the DOE Psychologist prepared a report (Report). Ex. 8. As part of the evaluation, the DOE Psychologist reviewed the Individual's medical records which revealed that although the Individual was instructed by her previous treating physician (the Physician) that 60 Oxycodone pills "need[ed] to last a month," she was filling the prescriptions at different pharmacies approximately every ten days from March 2022 to May 2022, receiving up 180 tablets per month. *Id*. at 41. In June 2022, she received 240 tablets.[3] *Id*. at 42.

The medical records also revealed that in August 2022, the Physician noted that she started to request multiple refills of Oxycodone, and in November 2022, the Physician met with the Individual and her husband to inform them that the Individual "need[ed] to cut down on opioids given her misuse of [them]. Other option would be Suboxone." Ex. 10 at 142, 149. He ultimately diagnosed her with Opioid Use Disorder. *Id*. at 141. The DOE Psychologist noted that after the Physician questioned her use of Oxycodone, she changed treating physicians. Ex. 8 at 48. The DOE Psychologist identified this behavior as "doctor shopping," which she defined as "seeking different physicians until one is found who will prescribe the medication you want[.]" *Id*.

As of the date of the evaluation, the Individual was receiving a prescription for 120 tablets per month from the new treating primary care physician (PCP). *Id*. The Individual told the DOE Psychologist that she had only misused the Oxycodone "on a single occasion[,]" taking "one oxy one-half hour early." *Id*. at 47. She also told the DOE Psychologist that in 2008, she was "blacklisted" from a pharmacy as a "narcotics seeker." *Id*. at 46. Ultimately, the DOE Psychologist diagnosed the Individual with Unspecified Opioid-Related Disorder pursuant to the *Diagnostic and Statistical Manual of Mental Disorders, 5th edition Text Revision* (*DSM-5-TR*) and recommended that the Individual follow the recommendations of the Pain Specialist.[4] *Id*. at 49.

Due to unresolved concerns, the Local Security Office (LSO) informed the Individual in a Notification Letter that it possessed reliable information that created substantial doubt regarding her eligibility to hold a security clearance. In the Summary of Security Concerns, attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline E (Personal Conduct) and Guideline H (Drug Involvement). Ex. 1. It also informed the Individual that she was subject to the Bond Amendment pursuant to 50 U.S.C § 3343(b). *Id.*

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[3] The Individual's medical records reveal that in June 2022, she filled a prescription on June 3 for 60 tablets of Oxycodone, filled another prescription on June 15 for 90 tablets from Pharmacy A, and filled a third prescription on June 17 from a Pharmacy B for 90 tablets. Then, in July 2022, she went to the emergency room where she received a prescription for a second opioid. Ex. 10 at 141.

[4] According to the Individual's medical records, the Pain Specialist recommended that the Individual undergo a spinal cord stimulator implant, which he noted that the Individual did not want. Ex. 10 at 321. As such, he noted that he would "try to minimize [the Individual's] opioid use by continuing adjuvant medications, physical therapy, and performing interventional pain procedures when indicated." *Id*. The Pain Specialist noted that he would not prescribe the dosage of Oxycodone that the Individual was using, and she would be required to bring her "pain medication bottles on every visit" to his office. *Id*. at 320–321.

Upon receipt of the Notification Letter, the Individual exercised her right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted twelve numbered exhibits (Ex. 1–12) into the record and presented the testimony of the DOE Psychologist. The Individual introduced thirteen lettered exhibits (Ex. A–M)[5] into the record and presented the testimony of six witnesses, including the Individual herself. The hearing transcript in the case will be cited as "Tr." followed by the relevant page number.

II. Regulatory Standard

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). 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) (strong presumption against the issuance of a security clearance).

An individual must come forward at the hearing with evidence to convince the DOE that granting or restoring 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). An individual is afforded a full opportunity to present evidence supporting her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

III. Notification Letter and Associated Security Concerns

As previously mentioned, the Notification Letter included the Summary of Security Concerns, which set forth the derogatory information that raised concerns about the Individual's eligibility for access authorization. The information in the letter specifically cites Guideline E and Guideline H of the Adjudicative Guidelines as well as the Bond Amendment. Ex. 1.

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[5] Included in the Individual's exhibits were: (A) communications between the Individual and the Occ Med psychologist, (B) a health history, (C) medical records, (D) a letter from the Pain Specialist, (E) an email from the Individual to the Individual entitled "first attempt to seek a trauma psychologist," (F) a letter from a therapist indicating only that the Individual had "therapy services on 6/12/23 and was discharged on 2/10/24," (G) a letter from the PCP stating that the Individual "has always used her pain medications appropriately," and (H-M) six letters of recommendations from friends and colleagues.

Guideline H relates to security risks arising from drug involvement and substance misuse. "The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs . . . can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 24.

The Bond Amendment provides that "a federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict." 50 U.S.C. § 3343(b). According to DOE policy, an "unlawful user of a controlled substance" is:

> any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of the controlled substance in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use occurred recently enough to indicate the individual is actively engaged in such conduct.

DOE Order 472.2A, Personnel Security, Appendix C: Adjudicative Considerations Related to Statutory Requirements and Departmental Requirements (June 10, 2022) (DOE Bond Amendment Guidance). An addict is "any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction." 21 U.S.C. § 802(1); DOE Bond Amendment Guidance.

Guideline E relates to security risks arising from personal conduct. It provides that "[c]onduct involving questionable judgment, lack of candor, dishonesty or unwillingness to comply with rules and regulations can raise questions about an individual's trustworthiness and ability to protect classified information." Adjudicative Guidelines at ¶ 15. Of special interest under this guideline is the "failure to provide truthful and candid answers during national security investigative or adjudicative processes." *Id*. Conditions that could raise a security concern under this guideline include "deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire . . . ." *Id*. at ¶ 15(a).

In citing Guideline E, Guideline H, and the Bond Amendment, the LSO relied upon:

1) The DOE Psychologist's diagnosis of the Individual with Unspecified Opioid-Related Disorder (Bond Amendment and Guideline H);

2) The Individual's medical records which reflected that, in 2022, she was filling Oxycodone prescriptions at different pharmacies and receiving up to 240 tablets per month when her prescribed dosage was no more than 60 per month (Bond Amendment, Guideline H, Guideline E);

3) The DOE Psychologist's determination that the Individual was "doctor shopping" and had a history of being blacklisted by a pharmacy (Guideline H);

4) The Individual's choice to ignore the Physician's recommendation to decrease her opioid use and to continue to receive 120 tablets per month, twice his recommended dosage (Guideline H);

5) The discrepancies between the Individual's disclosures on the LOI and during the psychological evaluation regarding her prescription misuse (Guideline E); and

6) The Individual's statement during the psychological evaluation that she had never been diagnosed with a substance use disorder when her medical records indicate that she was diagnosed with Opioid Use Disorder in 2022 (Guideline E).

Ex. 1 at 5–6.

IV. Hearing Testimony

At the hearing, two of the Individual's supervisors and one colleague testified on her behalf. Tr. at 17, 24, 58. Each witness testified that she was honest, reliable, and trustworthy. *Id.* at 19, 26–27, 61. The Individual's husband (Husband) also testified on her behalf. *Id*. at 29. He stated that the Individual began taking opioids approximately 17 years prior and that she has several medical conditions that cause her pain. *Id*. at 33, 49. However, he stated that approximately two years ago, she began receiving treatments that have "really helped reduce the need for any narcotic pain relief." *Id*. at 33–34, 42.

The Individual testified that she did not recall when she first started taking opioid painkillers but estimated that they were first prescribed around 2008 or 2009 when she took them for approximately one week following a surgery. *Id*. at 71–72. Although the Individual could not recall taking oxycodone after this week-long period, she later explained that, in 2008, she was "blacklisted" from a pharmacy as a "narcotics seeker." *Id*. at 72, 127. She explained that her doctor, at the time, only worked part time, and therefore, she would receive a new doctor within the practice each time she needed to be seen. *Id*. This resulted in numerous doctors prescribing her a new prescription for oxycodone every 30 days, which caused the pharmacy to "blacklist" her. *Id*. at 128–129.

The Individual stated that she was again prescribed opioid painkillers by a hospital in 2014 following a car accident while out of town. *Id*. at 74. When asked if she had been taking opioid painkillers "steadily or routinely since 2014," she stated, "I don't remember. I know I have been taking them for a while." *Id*. When asked to clarify what she meant by "a while," she stated, "I know I started taking them after the accident." *Id*. at 75.

Turning to her medical records, the Individual disputed the Physician's allegation that that she was requesting multiple refills of Oxycodone. *Id*. at 100. She asserted that she "didn't request extra pills. [She] ran out of pills" while on vacation, and the Physician sent the refill to her home pharmacy instead of the pharmacy where she was vacationing. *Id*. at 100–101, 109–110. The Physician then sent the prescription to the pharmacy where she was vacationing, and when she

got home, her husband picked up the original prescription.[6] *Id.* at 109–110. She stated that she destroyed the extra pills but never told the Physician that she had done so. *Id.*

When asked why she was filling prescriptions for 180 tablets in March 2022, 180 tablets in April 2022, 180 tablets in May 2022, and 240 tablets in June 2022 when she was only supposed to have 60 tablets per month, the Individual stated, "I was going to the pharmacy and I was just receiving my meds. So why they were being prescribed more than originally, I don't have control over that. I – I can't order these medications." *Id.* at 114. She stated that she was not taking all of the tablets she received, and when asked why she continued to fill the prescriptions if she did not take all of the tablets she was receiving, she stated that the prescriptions "were just being filled. I – they were getting them filled. I'm not – I'm not sure. I –I don't know. I – I'm not sure how to answer that." *Id.* She also noted that the prescriptions being discussed were "two years ago, and there was an issue then with it. There is no longer an issue with it." *Id.* at 113. She then stated, "I must have been taking too many at that time. The issue has been corrected with the care of my new doctor." *Id.* at 115.

The Individual testified that no provider had ever informed her that they thought she was overusing Oxycodone, that she did not recall any provider recommending that she reduce or eliminate her Oxycodone usage, and that she had "nothing from any doctors written in regard to" using Suboxone. *Id.* at 102–03. When asked about the medical records that indicated that the Physician was concerned regarding her misusing her opioids and recommending that she wean them or start on Suboxone, the Individual stated that she remembered the Physician offering to wean the Oxycodone, but she did not remember him suggesting Suboxone. *Id.* at 104. She later acknowledged that the Physician was concerned with the number of opioids she was using; however, she stated that the concern arose solely due to the miscommunication regarding her refill while she was on vacation. *Id.* at 105–06, 108.

The Individual stated that she is currently prescribed Oxycodone by the PCP. *Id.* at 76. The Individual testified that in March 2023, she had a facial surgery which caused her to increase the number of Oxycodone tablets she was taking. *Id.* at 119. The Individual's medical records indicate that in March 2024, she requested that her PCP increase her Oxycodone from four 15 mg tablets to five 15 mg tablets per day, which he granted. Ex. 10 at 241. Then, in April 2024, the Individual asked that the PCP increase her dosage from five 15 mg to five 20 mg tablets, which he again prescribed.[7] *Id.* at 234, 236.

The Individual testified that the PCP currently prescribed her 120 15 mg tablets which she fills once per month. *Id.* at 77. She stated that she takes approximately two pills per day, which she acknowledged is approximately 60 to 62 pills per month. *Id.* When asked what she does with the pills remaining in the prescription bottle at the end of the month, she stated that she "basically destroy[s] them" by putting them in coffee grounds. *Id.* at 78. The Individual then revised her previous testimony, stating that in the last year, she has been taking approximately 90 tablets per

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[6] The Husband provided testimony consistent with the Individual's story and added that the vacation was around June 2022. Tr. at 46, 51–52. The Husband stated that this incident caused the Physician to believe that the Individual was "using too many" Oxycodone tablets. *Id.* at 37.

[7] According to the Report, the PCP told the Occ Med psychologist that the Individual was not addicted to Oxycodone because "addiction is someone shooting up heroin under a bridge." Ex. 8 at 39.

month as she has had a foot condition and, therefore, has been destroying approximately 30 tablets per month. *Id.* at 79, 81. The Individual testified that she never told the PCP that she was destroying her extra tablets, and she did not ask for fewer tablets as she "didn't think [she] had to." *Id.* at 90. She stated that she continued to refill the prescription when she has extra tablets because it is a habit to refill her prescriptions every 30 days. *Id.* at 117.

Turning to her response on the LOI that she has never been ordered, advised, or asked to seek counseling or treatment as a result of her use of controlled substances, the Individual testified that she believes this to be an accurate answer as she has "never received anything regarding a written [sic] for counseling or treatment." *Id.* at 133. She further explained the discrepancies between her answers on the LOI and during the psychological evaluation regarding her misuse of the Oxycodone were attributable to her being "very confused and nervous when speaking with the doctors." *Id.* at 134. She stated that she "can ramble on . . . and say things that [she] shouldn't." *Id.*

Regarding the Report, the Individual testified that she was surprised when she saw the DOE Psychologist's diagnosis as she does not feel like her medication is "an issue." *Id.* at 134–35. She stated that she had not followed any of the Pain Specialist's recommendations as the DOE Psychologist advised because the Pain Specialist "is not [her] doctor." *Id.* at 135. She also stated that the Pain Specialist did not think she was taking too many opioids and that he "blessed" the way that the PCP was prescribing her Oxycodone, which she shared with her PCP. *Id.* at 123, 126.

The DOE Psychologist testified after hearing all of the testimony presented. She stated that she had spoken with the Pain Specialist as part of her evaluative process, and the Pain Specialist indicated that the Individual "did not like what he had to say[,]" which she interpreted to mean "he reviewed with [the Individual] what their treatment approach would be, and she declined it, she refused it." *Id.* at 139, 141. According to the DOE Psychologist, the Pain Specialist also expressed concerns about the amount of opioids the Individual was taking. *Id.* at 141. She stated that based upon her conversation with the Pain Specialist, he had not "blessed" the PCP's management of the Individual's Oxycodone usage as the Individual had represented to the PCP. *Id.* at 142.

The DOE Psychologist stated that the Individual currently still meets the criteria for a diagnosis of Unspecified Opioid-Related Disorder, as: the Individual by her own admission, has a history of taking too many pills; she has been diagnosed by the Physician with Opioid Use Disorder; the Pain Specialist opined that the Individual's Oxycodone dosage was too high; and the Individual has "dissemble[ed] her dishonesty to several people about how much she is taking." *Id.* at 146. The DOE Psychologist opined that the Individual had not shown adequate evidence of rehabilitation or reformation. *Id.*

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c), the Adjudicative Guidelines, the Bond Amendment, and DOE

Bond Amendment Guidance. After due deliberation, I have determined that the Bond Amendment does not prohibit the Individual from holding a security clearance, but that the Individual has not mitigated the security concerns noted by the LSO regarding Guideline E and Guideline H. I cannot find that restoring the Individual's DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Therefore, I have determined that the Individual's security clearance should not be restored.

At the outset, I note that I found the Individual's testimony to be evasive and rife with inconsistencies. The Individual initially stated that she did not recall if she took opioids for longer than one week following her 2008 surgery, but then proceeded to explain how she was "blacklisted" from a pharmacy for being a "narcotics seeker" in 2008 for receiving multiple Oxycodone prescriptions from various physicians. She stated she was not taking the 60 extra tablets she was receiving each month in 2022, yet somehow ran out of tablets on her vacation, causing her to fill prescriptions for 240 tablets in June 2022. She claimed that she destroyed the extra tablets she received but later acknowledged that she "must have been taking too many" tablets.

The Individual is still receiving 120 tablets per month and claiming to destroy somewhere between 30 to 60 tablets. I do not find it credible that the Individual is repeatedly filling prescriptions for more tablets than she uses, only to destroy them, rather than requesting a revised prescription, particularly given her history of opioid misuse. This claim is particularly concerning given the Husband's testimony that she has been receiving treatments for the last two years that have decreased her pain and dependency on narcotics. Furthermore, the Individual is either unwilling or unable to acknowledge that multiple practitioners have concerns regarding her opioid usage despite seeing the concerns expressed both in her medical records and the Report.

A. The Bond Amendment

As stated above, the Bond Amendment provides that federal agencies "may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict." 50 U.S.C. § 3343(b); *see also* DOE Bond Amendment Guidance. I cannot find that the Individual meets the definition of an unlawful user or addict. The Individual has found a provider, the PCP, who is willing to provide her with 120 tablets of Oxycodone per month, and there is no indication that she is currently using them in a manner other than prescribed. Further, there is nothing in the record indicating that the Individual has lost the power of self-control with reference to her use of Oxycodone, and there is nothing in the record to indicate that she uses the Oxycodone in a manner that endangers the public morals, health, safety, or welfare. As such, I find the Bond Amendment is not applicable and does not preclude the Individual from holding a security clearance.

B. Guideline H

Conditions that could mitigate a security concern under Guideline H include:

a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence . . .

c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Id. at ¶ 26.

Although the Bond Amendment is not applicable here, I cannot find that the Individual has mitigated the Guideline H security concerns. While the Individual's concerning behavior regarding the frequent refilling of her Oxycodone prescriptions cited in the Summary of Security Concerns occurred approximately two years ago, I cannot find that the concerning behavior regarding her prescription misuse has ceased. The record indicates that the Individual has been told by multiple providers that her opioid usage is excessive, and she has received two separate diagnoses for opioid use disorders. Yet, as recently as April 2024, she requested an increase in her prescribed opioid dosage. Furthermore, the Individual refuses to acknowledge that multiple providers have advised her to either wean off of her medication or begin using Suboxone. As such, I cannot find that the Individual has mitigated the security concerns under either factors (a) or (b). *Id.* at ¶ 26(a)–(b).

Furthermore, while I recognize that the Individual is struggling with multiple long-term medical conditions that cause her pain and have required the use of opioid painkillers, the Individual continues to use opioids in excess of the recommendations of both the Physician, the Pain Specialist, and the DOE Psychologist. As such, I cannot find that the Individual has established the applicability of mitigating factor (c). *Id.* at ¶ 26(c). As the Individual has not completed any drug treatment program, factor (d) is not applicable here. *Id.* at ¶ 26(d).

For the foregoing reasons, I cannot find that the Individual has mitigated the Guideline H security concerns.

C. Guideline E

Conditions that may mitigate a Guideline E security concern include:

a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

f) The information was unsubstantiated or from a source of questionable reliability; and,

g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

The Individual has not made any attempt to correct the misinformation that she provided on the LOI or during the psychological evaluation. In fact, she refuses to acknowledge and continues to deny that she was ever advised to seek counseling or treatment for her opioid usage and claims she does not remember the Physician's diagnosis of Opioid Use Disorder. Furthermore, the Individual continues to provide discrepant information regarding her prescription drug use as discussed above. As such I cannot find that the Individual has mitigated the security concerns under factors (a), (c), or (d).[8] *Id*. at ¶ 17 (a), (c)–(d).

For the foregoing reasons, I cannot find that the Individual has mitigated the Guideline E security concerns.

VI. Conclusion

[8] Factors (b), (e), (f), and (g) are not applicable to the case, and thus, I will not analyze them.

After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I have found that the Bond Amendment does not prohibit the Individual from holding a security clearance, but that the Individual has not brought forth sufficient evidence to resolve the security concerns associated with Guideline E and Guideline H. Accordingly, the Individual has not demonstrated that restoring her security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Katie Quintana
Administrative Judge
Office of Hearings and Appeals