

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX SUPERIOR COURT

CIVIL ACTION NO. _____

BO SHANG,

By his own act of filing,

Date: 3/1/2025 Signature: _____

Printed Name: Bo Shang

Address: 10 McCafferty Way

Burlington, MA 01803

Phone: 781-999-4101

Email: bo@shang.software

THE EDINBURGH CENTER PACT PROGRAM,

Defendant.

COMPLAINT

1 PARTIES

1.1. Plaintiff, Bo Shang, is an individual residing in Middlesex County, Commonwealth of Massachusetts.

1.2. Upon information and belief, The Edinburgh Center PACT Program is a healthcare provider located in Middlesex County, Commonwealth of Massachusetts, and is subject to the laws of the Commonwealth regarding the practice of mental health treatment and related services. See G.L. c. 112, § 129A; G.L. c. 111, § 203; see also G.L. c. 123, § 1 et seq. Healthcare providers in Massachusetts, including mental

health providers, must comply with the standards of professional conduct established by boards of registration and applicable statutes, and they may be held liable in tort if they deviate from the accepted standard of care. See *Santos v. Kim*, 429 Mass. 130, 133 (1999); *Kapp v. Ballantine*, 380 Mass. 186, 193 (1980); *Forlano v. Hughes*, 393 Mass. 502, 505–06 (1984); *Felton v. Spiro*, 188 Mass. 563, 567–68 (1905); *Morgan v. Lalumiere*, 22 Mass. App. Ct. 262, 265 (1986). Under the doctrine of respondeat superior, a facility can be liable for the negligence of its employees acting within the scope of employment. See *Dias v. Brigham Med. Assocs., Inc.*, 438 Mass. 317, 319 n.1 (2002).

2 JURISDICTION AND VENUE

2.1. This Court has subject matter jurisdiction over this action pursuant to G.L. c. 212, § 4, as the amount in controversy exceeds the jurisdictional threshold of the Superior Court, and the claims arise under the laws of the Commonwealth of Massachusetts. See *Maxwell v. AIG Domestic Claims, Inc.*, 460 Mass. 91, 99 (2011); G.L. c. 231, § 60B; *Mello v. Stop & Shop Cos.*, 402 Mass. 555, 557 (1988). See also the general requirement that medical malpractice claims be brought in the Superior Court. Held *v. Bail*, 28 Mass. App. Ct. 919, 920 (1989).

2.2. Venue is proper in Middlesex County under G.L. c. 223, §§ 1, 2, because the cause of action arose in Middlesex County and Defendant conducts business and provides services in Middlesex County. See *Salomon S. v. C.*, 360 Mass. 795, 796 (1972); see also G.L. c. 223, § 5; *Dall v. Kaylor*, 88 Mass. App. Ct. 1112 (2015) (Rule 1:28 decision).

3 FACTUAL ALLEGATIONS

3.1. Plaintiff sought mental health care from Defendant beginning in or around September 2021. See G.L. c. 123, § 1 et seq.; *Toste v. Somerset County Guidance Ctr.*, 5 Mass. App. Ct. 326, 329 (1977).

3.2. Between approximately September 2021 and December 2024, Defendant misdiagnosed Plaintiff as suffering from schizophrenia. This alleged diagnosis remained on Plaintiff's medical records and was relied upon by Defendant's employees and agents when determining courses of treatment. See *Kapp v. Ballantine*, 380 Mass. 186, 193,

73 402 N.E.2d 463 (1980); N.L. v. Children's Hosp. Boston, 450 Mass. 109, 114 (2007);
 74 Glicklich v. Spievack, 16 Mass. App. Ct. 488, 492 (1983); Forlano v. Hughes, 393
 75 Mass. 502, 505–06 (1984); Morgan, 22 Mass. App. Ct. at 265.

76
 77 3.3. As a result of this misdiagnosis, Plaintiff was unable to obtain the necessary and
 78 appropriate medication for Attention Deficit Hyperactivity Disorder ("ADHD").
 79 Without proper ADHD medication, Plaintiff's ability to function as a software
 80 engineer was severely compromised. See Palandjian v. Foster, 446 Mass. 100, 105
 81 (2006); Vaidyanathan v. Days Inns of Am., Inc., 7 Mass. L. Rptr. 512, 1997 WL
 82 94544, at *5 (Mass. Super. Ct. 1997); Walsh v. Baxter Healthcare Corp., 62 Mass.
 83 App. Ct. 853, 855–56 (2005); Glenn v. Aiken, 409 Mass. 699, 706 (1991) (plaintiff
 84 must show negligence was a substantial factor in bringing about harm).

85
 86 3.4. Plaintiff experienced extended periods of unemployment from September 2021
 87 through December 2024 directly attributable to the lack of proper ADHD treatment.
 88 He also endured pain and suffering, mental anguish, and stress due to the incorrect
 89 diagnosis and the failure to treat his actual condition. See Rodgers v. Boynton, 315
 90 Mass. 279, 280 (1943); Franklyn v. Peabody, 249 Mass. 478, 482 (1924); Conway v.
 91 Smerling, 37 Mass. App. Ct. 1, 9 (1994); Goguen v. Taylor, 374 Mass. 152, 160
 92 (1978); Anderson v. Nat'l Union Fire Ins. Co., 45 Mass. App. Ct. 288, 294 (1998)
 93 (mental anguish compensable in negligence).

94
 95 3.5. During this same period, Nurse Practitioner Pam Miller, employed or affiliated with
 96 Defendant, attempted to prescribe a game purportedly authorized by the U.S. Food
 97 and Drug Administration to address ADHD in children aged eight to seventeen.
 98 Plaintiff, then age 36, was outside the indicated age range for such therapy. See Harlow
 99 v. Chin, 405 Mass. 697, 702 (1989); Koch v. Kennedy, 398 Mass. 421, 426 (1986);
 100 Fearon v. Dermody, 72 Mass. App. Ct. 88, 93 (2008).

101
 102 3.6. The above actions and omissions by Defendant represent a departure from accepted
 103 standards of mental health care, proximately caused Plaintiff's injuries, and
 104 contributed to his damages as more fully described below. See Brune v. Belinkoff, 354
 105 Mass. 102, 109 (1968); Zeller v. Cantu, 395 Mass. 76, 79 (1985); Kelly v. Rossi, 395
 106 Mass. 659, 662 (1985); Matsuyama v. Birnbaum, 452 Mass. 1, 17–18 (2008); Morgan,
 107 22 Mass. App. Ct. at 265.

108

4 COUNT I – MEDICAL NEGLIGENCE (MEDICAL MALPRACTICE)

4.1. Plaintiff restates and re-alleges each and every allegation set forth above as if fully set forth herein.

4.2. Under Massachusetts law, a medical provider owes a duty to exercise that degree of care and skill of the average qualified practitioner in the field. See *Brune v. Belinkoff*, 354 Mass. 102, 109 (1968); *Kapp v. Ballantine*, 380 Mass. 186, 193 (1980). This standard of care applies equally to mental health professionals. See *Zeller v. Cantu*, 395 Mass. 76, 79 (1985); *Blood v. Lea*, 403 Mass. 430, 434–35 (1988); *Morgan*, 22 Mass. App. Ct. at 265. Liability arises when there is a deviation from this standard of care that proximately causes harm to the patient. See *Harlow v. Chin*, 405 Mass. 697, 702 (1989); *Glicklich v. Spievack*, 16 Mass. App. Ct. 488, 492 (1983); *Glenn v. Aiken*, 409 Mass. 699, 706 (1991).

4.3. Defendant and its agents and employees owed Plaintiff a duty of reasonable care in providing accurate diagnoses and appropriate treatment for his mental health condition(s). See *Stepakoff v. Kantar*, 393 Mass. 836, 841 (1985); *Santos v. Kim*, 429 Mass. 130, 133 (1999); *Kapp v. Ballantine*, 380 Mass. 186, 193 (1980); *Fearon*, 72 Mass. App. Ct. 88, 93 (2008).

4.4. By misdiagnosing Plaintiff as schizophrenic from September 2021 through December 2024, and by failing to prescribe or facilitate appropriate ADHD medication, Defendant breached its duty to Plaintiff. See *Brune*, 354 Mass. at 109; *Harlow*, 405 Mass. at 702; *N.L. v. Children's Hosp. Boston*, 450 Mass. 109, 114 (2007); *Forlano*, 393 Mass. at 505–06; *McGuinness v. Cotter*, 412 Mass. 617, 624 (1992) (breach of the applicable standard of care).

4.5. The improper diagnosis and consequent failure to provide effective ADHD medication were the direct and proximate cause of Plaintiff's damages, including unemployment and pain and suffering. See *Mays v. Babenko*, 37 Mass. App. Ct. 495, 498 (1994); *Doherty v. Hellman*, 406 Mass. 330, 333–34 (1989); *Kent v. Commonwealth*, 437 Mass. 312, 320 (2002); *Glicklich*, 16 Mass. App. Ct. at 492; *Matsuyama*, 452 Mass. at 25.

4.6. As a foreseeable result of Defendant's negligence, Plaintiff was unable to maintain

145 consistent employment, leading to significant financial losses and ongoing mental and
146 emotional distress. See *Rodgers*, 315 Mass. at 280; *Conway v. Smerling*, 37 Mass. App.
147 Ct. 1, 9 (1994); *Halley v. Birbiglia*, 390 Mass. 540, 546 (1983); *Goguen*, 374 Mass.
148 at 160; *Anderson*, 45 Mass. App. Ct. at 294.

149
150 4.7. Pursuant to G.L. c. 231, § 60B, this claim is subject to a medical malpractice tribunal.
151 If the tribunal finds that Plaintiff's allegations present a legitimate question of liability,
152 the matter shall proceed in this Court. See *Denton v. Beth Israel Hosp.*, 392 Mass. 277,
153 279–81 (1984); *Little v. Rosenthal*, 376 Mass. 573, 575–76 (1978); *Faircloth v.*
154 *DiLillo*, 33 Mass. App. Ct. 928, 928–29 (1992). The statute of limitations for
155 medical malpractice in Massachusetts is generally three years from the date the
156 cause of action accrues, subject to the discovery rule. See G.L. c. 260, § 4; *Franklin*
157 *v. Albert*, 381 Mass. 611, 618 (1980).

158 159 5 COUNT II – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

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161 5.1. Plaintiff restates and re-alleges each and every allegation set forth above as if fully
162 set forth herein.

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164 5.2. Under Massachusetts law, a claim for negligent infliction of emotional distress
165 requires the plaintiff to demonstrate (a) negligence, (b) causation, (c) that emotional
166 distress was foreseeable, and (d) that the emotional distress was severe. See *Payton v.*
167 *Abbott Labs*, 386 Mass. 540, 557–58 (1982); *Sullivan v. Boston Gas Co.*, 414 Mass.
168 129, 132 (1993); *Cohen v. McDonnell Douglas Corp.*, 389 Mass. 327, 336 (1983).

169
170 5.3. Defendant's conduct in misdiagnosing Plaintiff's mental health condition and failing
171 to provide appropriate treatment fell below the standard of care, constituting
172 negligence. See *Brune*, 354 Mass. at 109; *Zeller*, 395 Mass. at 79; *Miles v. Edward*
173 *O. Tabor, M.D., Inc.*, 387 Mass. 783, 785–86 (1982); *Blood*, 403 Mass. at 434–35.

174
175 5.4. The misdiagnosis and inadequate treatment caused severe and ongoing emotional
176 distress to Plaintiff, who struggled without effective treatment and experienced
177 significant disruptions to his professional livelihood. See *Payton*, 386 Mass. at 557–58;
178 *Cohen*, 389 Mass. at 336; *O'Connor v. Raymark Indus., Inc.*, 401 Mass. 586, 591–92
179 (1988).

180

181 5.5. It was reasonably foreseeable that the failure to provide appropriate care and the
182 continued misdiagnosis would cause severe emotional distress to an individual seeking
183 competent mental health treatment. See Sullivan, 414 Mass. at 137; Aldoupolis v.
184 Globe Newspaper Co., 398 Mass. 731, 737 (1986); Mullins v. Pine Manor Coll., 389
185 Mass. 47, 51 (1983); Goguen, 374 Mass. at 160.

186
187 5.6. Plaintiff sustained severe emotional distress, including anxiety, humiliation, and
188 depression, as a direct and proximate result of Defendant's negligence. See Sullivan,
189 414 Mass. at 137–38; Wyman v. Ayer Properties, LLC, 469 Mass. 64, 75 (2014);
190 Rodgers, 315 Mass. at 280; Trudel v. Gagne, 328 Mass. 464, 468 (1952) (mental
191 anguish as recoverable harm).

192 193 194 6 DAMAGES

195 6.1. As a result of Defendant's negligence, Plaintiff suffered:

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197 a. Loss of gainful employment and income from September 2021 through December
198 2024;

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200 b. Ongoing pain and suffering, mental anguish, and emotional distress;

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202 c. Medical expenses related to inappropriate or ineffective treatments and any
203 subsequent treatments required to address the misdiagnosis;

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205 d. Diminished earning capacity due to the extended disruption in Plaintiff's career,
206 given the nature of software engineering employment; and

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208 e. Other damages as shall be proven at trial.

209 210 211 7 PRAYER FOR RELIEF

212 WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

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214 A. Enter judgment in Plaintiff's favor on all counts;

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216 B. Award Plaintiff compensatory damages, including but not limited to lost wages, lost

217 earning capacity, medical expenses, and pain and suffering, in an amount to be 217
218 determined at trial; see Kapp v. Ballantine, 380 Mass. 186, 193 (1980); G.L. c. 231, 218
219 § 85K; G.L. c. 231, § 60H; Matsuyama, 452 Mass. at 27; 219

220 220
221 C. Award Plaintiff interest, costs, and attorney's fees as permitted by law; see G.L. c. 231, 221
222 § 6B; G.L. c. 261, §§ 1 et seq.; Waldman v. American Honda Motor Co., 413 Mass. 222
223 320, 322 (1992); 223

224 224
225 D. Grant such other and further relief as this Court deems just and proper. 225
226 226

227 **8 JURY DEMAND** 227

228 228
229 Plaintiff hereby demands a trial by jury on all claims so triable pursuant to Mass. R. Civ. P. 229
230 38(b). 230

231 231
232 Respectfully submitted, 232

EXHIBIT 1:

Plaintiff Bo is misdiagnosed as schizophrenic, for over over 4 years by PACT.

EXHIBIT 2:

PACT nurse practitioner Pam Miller attempts to prescribe a game, FDA approved for ages 8-17 to treat ADHD.