

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX SUPERIOR COURT

CIVIL ACTION NO. \_\_\_\_\_

\_\_\_\_\_

**BO SHANG,**

Plaintiff,

v.

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

3.3. As a result of this misdiagnosis, Plaintiff was unable to obtain the necessary and

73 appropriate medication for Attention Deficit Hyperactivity Disorder ("ADHD"). 73  
 74 Without proper ADHD medication, Plaintiff's ability to function as a software 74  
 75 engineer was severely compromised. See Palandjian v. Foster, 446 Mass. 100, 105 75  
 76 (2006); Vaidyanathan v. Days Inns of Am., Inc., 7 Mass. L. Rptr. 512, 1997 WL 76  
 77 94544, at \*5 (Mass. Super. Ct. 1997); Walsh v. Baxter Healthcare Corp., 62 Mass. 77  
 78 App. Ct. 853, 855–56 (2005); Glenn v. Aiken, 409 Mass. 699, 706 (1991) (plaintiff 78  
 79 must show negligence was a substantial factor in bringing about harm). 79

80  
 81 3.4. Plaintiff experienced extended periods of unemployment from September 2021 81  
 82 through December 2024 directly attributable to the lack of proper ADHD treatment. 82  
 83 He also endured pain and suffering, mental anguish, and stress due to the incorrect 83  
 84 diagnosis and the failure to treat his actual condition. See Rodgers v. Boynton, 315 84  
 85 Mass. 279, 280 (1943); Franklyn v. Peabody, 249 Mass. 478, 482 (1924); Conway v. 85  
 86 Smerling, 37 Mass. App. Ct. 1, 9 (1994); Goguen v. Taylor, 374 Mass. 152, 160 86  
 87 (1978); Anderson v. Nat'l Union Fire Ins. Co., 45 Mass. App. Ct. 288, 294 (1998) 87  
 88 (mental anguish compensable in negligence). 88

89  
 90 3.5. During this same period, Nurse Practitioner Pam Miller, employed or affiliated with 90  
 91 Defendant, attempted to prescribe a game purportedly authorized by the U.S. Food 91  
 92 and Drug Administration to address ADHD in children aged eight to seventeen. 92  
 93 Plaintiff, then age 36, was outside the indicated age range for such therapy. See Harlow 93  
 94 v. Chin, 405 Mass. 697, 702 (1989); Koch v. Kennedy, 398 Mass. 421, 426 (1986); 94  
 95 Fearon v. Dermody, 72 Mass. App. Ct. 88, 93 (2008). 95

96  
 97 3.6. The above actions and omissions by Defendant represent a departure from accepted 97  
 98 standards of mental health care, proximately caused Plaintiff's injuries, and 98  
 99 contributed to his damages as more fully described below. See Brune v. Belinkoff, 354 99  
 100 Mass. 102, 109 (1968); Zeller v. Cantu, 395 Mass. 76, 79 (1985); Kelly v. Rossi, 395 100  
 101 Mass. 659, 662 (1985); Matsuyama v. Birnbaum, 452 Mass. 1, 17–18 (2008); Morgan, 101  
 102 22 Mass. App. Ct. at 265. 102

#### 103 104 **4 COUNT I – MEDICAL NEGLIGENCE (MEDICAL MALPRACTICE)** 104 105

106 4.1. Plaintiff restates and re-alleges each and every allegation set forth above as if fully 106  
 107 set forth herein. 107  
 108

109 4.2. Under Massachusetts law, a medical provider owes a duty to exercise that degree of 109  
110 care and skill of the average qualified practitioner in the field. See *Brune v. Belinkoff*, 110  
111 354 Mass. 102, 109 (1968); *Kapp v. Ballantine*, 380 Mass. 186, 193 (1980). This 111  
112 standard of care applies equally to mental health professionals. See *Zeller v. Cantu*, 112  
113 395 Mass. 76, 79 (1985); *Blood v. Lea*, 403 Mass. 430, 434–35 (1988); *Morgan*, 113  
114 22 Mass. App. Ct. at 265. Liability arises when there is a deviation from this standard 114  
115 of care that proximately causes harm to the patient. See *Harlow v. Chin*, 405 Mass. 115  
116 697, 702 (1989); *Glicklich v. Spievack*, 16 Mass. App. Ct. 488, 492 (1983); *Glenn v.* 116  
117 *Aiken*, 409 Mass. 699, 706 (1991). 117  
118 118  
119 4.3. Defendant and its agents and employees owed Plaintiff a duty of reasonable care in 119  
120 providing accurate diagnoses and appropriate treatment for his mental health 120  
121 condition(s). See *Stepakoff v. Kantar*, 393 Mass. 836, 841 (1985); *Santos v. Kim*, 429 121  
122 Mass. 130, 133 (1999); *Kapp v. Ballantine*, 380 Mass. 186, 193 (1980); *Fearon*, 122  
123 72 Mass. App. Ct. 88, 93 (2008). 123  
124 124  
125 4.4. By misdiagnosing Plaintiff as schizophrenic from September 2021 through December 125  
126 2024, and by failing to prescribe or facilitate appropriate ADHD medication, 126  
127 Defendant breached its duty to Plaintiff. See *Brune*, 354 Mass. at 109; *Harlow*, 405 127  
128 Mass. at 702; *N.L. v. Children's Hosp. Boston*, 450 Mass. 109, 114 (2007); *Forlano*, 128  
129 393 Mass. at 505–06; *McGuinness v. Cotter*, 412 Mass. 617, 624 (1992) (breach of 129  
130 the applicable standard of care). 130  
131 131  
132 4.5. The improper diagnosis and consequent failure to provide effective ADHD medication 132  
133 were the direct and proximate cause of Plaintiff's damages, including unemployment 133  
134 and pain and suffering. See *Mays v. Babenko*, 37 Mass. App. Ct. 495, 498 (1994); 134  
135 *Doherty v. Hellman*, 406 Mass. 330, 333–34 (1989); *Kent v. Commonwealth*, 437 135  
136 Mass. 312, 320 (2002); *Glicklich*, 16 Mass. App. Ct. at 492; *Matsuyama*, 452 Mass. 136  
137 at 25. 137  
138 138  
139 4.6. As a foreseeable result of Defendant's negligence, Plaintiff was unable to maintain 139  
140 consistent employment, leading to significant financial losses and ongoing mental and 140  
141 emotional distress. See *Rodgers*, 315 Mass. at 280; *Conway v. Smerling*, 37 Mass. App. 141  
142 Ct. 1, 9 (1994); *Halley v. Birbiglia*, 390 Mass. 540, 546 (1983); *Goguen*, 374 Mass. 142  
143 at 160; *Anderson*, 45 Mass. App. Ct. at 294. 143  
144 144

145 4.7. Pursuant to G.L. c. 231, § 60B, this claim is subject to a medical malpractice tribunal.  
 146 If the tribunal finds that Plaintiff's allegations present a legitimate question of liability,  
 147 the matter shall proceed in this Court. See Denton v. Beth Israel Hosp., 392 Mass. 277,  
 148 279–81 (1984); Little v. Rosenthal, 376 Mass. 573, 575–76 (1978); Faircloth v.  
 149 DiLillo, 33 Mass. App. Ct. 928, 928–29 (1992). The statute of limitations for  
 150 medical malpractice in Massachusetts is generally three years from the date the  
 151 cause of action accrues, subject to the discovery rule. See G.L. c. 260, § 4; Franklin  
 152 v. Albert, 381 Mass. 611, 618 (1980).

153  
 154 **5 COUNT II – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
 155

156 5.1. Plaintiff restates and re-alleges each and every allegation set forth above as if fully  
 157 set forth herein.  
 158

159 5.2. Under Massachusetts law, a claim for negligent infliction of emotional distress  
 160 requires the plaintiff to demonstrate (a) negligence, (b) causation, (c) that emotional  
 161 distress was foreseeable, and (d) that the emotional distress was severe. See Payton v.  
 162 Abbott Labs, 386 Mass. 540, 557–58 (1982); Sullivan v. Boston Gas Co., 414 Mass.  
 163 129, 132 (1993); Cohen v. McDonnell Douglas Corp., 389 Mass. 327, 336 (1983).  
 164

165 5.3. Defendant's conduct in misdiagnosing Plaintiff's mental health condition and failing  
 166 to provide appropriate treatment fell below the standard of care, constituting  
 167 negligence. See Brune, 354 Mass. at 109; Zeller, 395 Mass. at 79; Miles v. Edward  
 168 O. Tabor, M.D., Inc., 387 Mass. 783, 785–86 (1982); Blood, 403 Mass. at 434–35.  
 169

170 5.4. The misdiagnosis and inadequate treatment caused severe and ongoing emotional  
 171 distress to Plaintiff, who struggled without effective treatment and experienced  
 172 significant disruptions to his professional livelihood. See Payton, 386 Mass. at 557–58;  
 173 Cohen, 389 Mass. at 336; O'Connor v. Raymark Indus., Inc., 401 Mass. 586, 591–92  
 174 (1988).  
 175

176 5.5. It was reasonably foreseeable that the failure to provide appropriate care and the  
 177 continued misdiagnosis would cause severe emotional distress to an individual seeking  
 178 competent mental health treatment. See Sullivan, 414 Mass. at 137; Aldoupolis v.  
 179 Globe Newspaper Co., 398 Mass. 731, 737 (1986); Mullins v. Pine Manor Coll., 389  
 180 Mass. 47, 51 (1983); Goguen, 374 Mass. at 160.

181  
182 5.6. Plaintiff sustained severe emotional distress, including anxiety, humiliation, and  
183 depression, as a direct and proximate result of Defendant's negligence. See Sullivan,  
184 414 Mass. at 137–38; Wyman v. Ayer Properties, LLC, 469 Mass. 64, 75 (2014);  
185 Rodgers, 315 Mass. at 280; Trudel v. Gagne, 328 Mass. 464, 468 (1952) (mental  
186 anguish as recoverable harm).  
187

## 188 6 DAMAGES 188

189  
190 6.1. As a result of Defendant's negligence, Plaintiff suffered: 190  
191  
192 a. Loss of gainful employment and income from September 2021 through December 192  
193 2024; 193  
194  
195 b. Ongoing pain and suffering, mental anguish, and emotional distress; 195  
196  
197 c. Medical expenses related to inappropriate or ineffective treatments and any 197  
198 subsequent treatments required to address the misdiagnosis; 198  
199  
200 d. Diminished earning capacity due to the extended disruption in Plaintiff's career, 200  
201 given the nature of software engineering employment; and 201  
202  
203 e. Other damages as shall be proven at trial. 203  
204

## 205 7 PRAYER FOR RELIEF 205

206  
207 WHEREFORE, Plaintiff respectfully requests that this Honorable Court: 207  
208  
209 A. Enter judgment in Plaintiff's favor on all counts; 209  
210  
211 B. Award Plaintiff compensatory damages, including but not limited to lost wages, lost 211  
212 earning capacity, medical expenses, and pain and suffering, in an amount to be 212  
213 determined at trial; see Kapp v. Ballantine, 380 Mass. 186, 193 (1980); G.L. c. 231,  
214 § 85K; G.L. c. 231, § 60H; Matsuyama, 452 Mass. at 27; 214  
215  
216 C. Award Plaintiff interest, costs, and attorney's fees as permitted by law; see G.L. c. 231, 216

217 § 6B; G.L. c. 261, §§ 1 et seq.; Waldman v. American Honda Motor Co., 413 Mass.  
218 320, 322 (1992);

219

220 D. Grant such other and further relief as this Court deems just and proper.

221

222 **8 JURY DEMAND**

223

224 Plaintiff hereby demands a trial by jury on all claims so triable pursuant to Mass. R. Civ. P.  
225 38(b).

226


227 Respectfully submitted,

228

229 **BO SHANG**

230

231

232 Date: 3/1/2025 Signature: 

233 Printed Name: Bo Shang

234 Address: 10 McCafferty Way

235 Burlington, MA 01803

236 Phone: 781-999-4101

237 Email: bo@shang.software

**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.