Dear BPSI Colleague:

Few persons know anything other than that which the press provided about the treatment of Paul Lozano by Dr. Margaret Bean-Bayog. However, certain psychoanalysts have carefully studied the voluminous public records of that treatment. Dr. John T. Maltsberger is one of these analysts. His review of the records led him to understand what others of us recognize: the press coverage was remarkably deficient and biased.

Dr. Maltsberger is an expert on the subject of suicide in severely disturbed patients. Last April he finished his term as President of The American Association of Suicidology. For his Presidential Address on that occasion, he chose to present his understanding of Dr. Bean-Bayog's treatment of Paul Lozano.

We are sending you a copy of this address because it accords with our understanding and because it succinctly presents what we believe is an essential view for colleagues who want to form a more balanced understanding of this highly significant case.

Sincerely yours,

Ralph P. Engle, M.D.

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Dan H. Buie, M.D.

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A Career Plundered

Presidential Address, John T. Malsberger, M. D.
The American Association of Suicidology
San Francisco, 15 April 1963

Margaret Bean-Bayog, a 49 year old Boston psychiatrist, resigned her license to practice medicine last September after a former patient's suicide set off a fire that burned down her reputation and her career. It started when the family sued her, their attorney inflamed the press, and the Board of Registration in Medicine joined the persecution. The damage was done before she ever had a day in court. Yet Dr. Bean-Bayog's side of the story has not been heard. I have decided to speak to you about this case because I think she was brutalized without justification, and because it shows what hazards and risks therapists must endure in the current climate: our society is hostile to the mentally ill. The government and the courts often deal harshly with those who try to help them.

I was called into the case a year ago as an expert, and reviewed the extensive records which became public after they were filed in court before the trial that never took place. Most of you will recall the sensational reports that heated up national newsmagazines and television at the time.
This controversial four years' treatment was a psychiatrist's nightmare. The record documents endless telephone calls, emergency interviews, consultations, and hospitalizations as the patient careened through months of living on the edge. I think the most likely diagnosis was manic-depressive illness complicated with intermittent delusions, or else schizoaffective illness. Once he connected himself to an intravenous apparatus and injected a dangerous drug. He visited the thirteenth story ledge, abused drugs and alcohol, and refused to cooperate in taking the medicines prescribed for him. There is little doubt in my mind that the patient would have committed suicide long before he did without Dr. Bean-Bayog's extraordinary dedication and tenacity. I think she did not know she was living out Hippocrates's famous axiom: "Life is short, the art long": she had trained for years to prepare herself to treat the desperately sick, and she was making an all-out effort for this man. "Opportunity fleeting," continued Hippocrates, "Experiment treacherous, judgement difficult."

There is no doubt that Dr. Bean-Bayog felt forced into several unusual therapeutic undertakings. Yet I would have you understand that these steps were not motivated by an intent to exploit or misuse Mr. Lozano. Ed Shneidman has written that in treating suicidal patients extraordinary
involvements are sometimes necessary, and I agree with this. But experiment
is treacherous.

She learned in the second week of the treatment that the patient already
had a stuffed puppy with which to soothe himself when he was overwhelmed.
It is not the case that Dr. Bean-Bayog "regressed" this man, as the newspapers
have reported. He had regressed already. She tried to help him with his
shame about this, and, borrowing from her knowledge of child-psychiatry, gave
him the blanket he found in her office and which he had spontaneously adopted
as a comforter. He was to bring this blanket to subsequent sessions and used
it at home when, away from his doctor, he felt terrified and suicidal. Later she
gave him children's books, and, at his request, wrote "Love, Mom" and similar
now notorious inscriptions in them, though not without misgivings. Her
treatment notes show that she repeatedly reminded the patient that she was not
really his mother, and could not be his mother. He seemed to understand this,
but claimed he found it comforting when away from her to pretend some mother
had really given him the books, loved him, and wanted him to be comforted.
The much deplored cards described by the press had the same origin. These
were written at the patient's dictation, and when they were being written, he
was reminded that they represented fantasies, not facts.
The card memorializing "the phenomenal sex" was also written at the patient's dictation, and it referred not to Dr. Bean-Bayog, but to another woman with whom the patient had been intimate.

There is no evidence in the record that any sexual intimacy ever took place between her and Mr. Lozano. She has repeatedly denied it. She estimates during her four years' care during which he was hospitalized several times some 117 mental health professionals (nurses, social workers, psychiatric aides, psychologists, psychiatrists, and the like) were engaged with him in one way or another. The patient could have complained to any of these were he being abused, but did not. In April 1988 the treatment notes record the patient's chagrin that Dr. Bean Bayog was not in reality sexually available to comfort him. He repeatedly thanked her for supporting him and saving his life when he was less frenetic. Months after she had terminated the treatment and the patient was in a rage at her, he told other doctors that she had been sexually intimate with him, falsely, I believe, and this is why the matter was reported to the Board of Registration in Medicine which later behaved so badly, as you will hear. I think Lozano lied about the treatment to avenge himself on Dr. Bean-Bayog for declining to see him any longer. The record shows that he had lied about her before: in June, 1987 he told another psychiatrist, consulted
about anti-depressant drugs, that she discouraged his taking what was prescribed. The records demonstrate the contrary: she had done all she could to get him to take his pills, and it was he who was consistently unwilling.

Dr. Bean-Bayog has been assailed with the charge that her treatment invited disastrous therapeutic regression and promoted a psychotic transference reaction. There is no doubt that during periods of her treatment with him the toys, the blanket, the books, and the cards (so-called transitional objects) were fixtures in profoundly regressed periods and that the patient was psychotic in the transference. I would not have written those inscriptions nor those cards. Read out of context they do indeed sound too tender, too intimate, like a mother speaking to a frightened child. Yet I am a man, and Dr. Bean-Bayog a woman. She was there and I was not. Furthermore, she repeatedly consulted with several other psychiatrists about her use of transitional objects as the treatment progressed. The patient was frantic in his distress on many occasions, and he claimed to find the writings and toys useful. Bear in mind that the patient had convincingly reported repeated episodes of childhood sexual intimacy with his mother. Remembering those experiences pitched him into fits of suicidal anguish. He seemed to have been afforded little maternal soothing and comforting. Dr. Bean-Bayog repeatedly tried to make the line between fact and
fantasy plain to this patient. The record shows that the patient invented the "Mom" of the cards and the children's books and the toys. Dr. Bean-Bayog reminded him time and again of the difference between fact and fantasy. She repeatedly consulted other colleagues about this somewhat unconventional treatment, the thrust of which was to meet the patient at the level where he was already functioning. He quickly began presenting himself to her as a child. The worst that can be said about the technique is that it invited him to tarry in an infantile regression, and intensified the transference. Fairness demands that the record be set straight: She did not force him into the regression in the first place. Furthermore, as their work together continued, the patient became less reliant on the transitional objects, and to a great extent laid them aside. There is evidence in the treatment record that they had their usefulness. The patient's worse symptoms belonged to the first eighteen months of the treatment, after which he began to improve. The transitional objects were of urgent usefulness only for about six months, after which the patient said he no longer needed them. Quieting down, he was able to stay out of the hospital from December 1987 until March 1990. His sister found the transitional objects when she searched his apartment during the last Boston hospitalization. They were the
principal faggots used to build the bonfire with which Dr. Bean-Bayog's reputation and career were burned.

There was a phase in the treatment when the transference became intensely erotic, and in a most unpleasant way. Mr. Lozano became obsessed with sexual torture and bombarded Dr. Bean-Bayog with graphic, brutal sadomasochistic fantasy. He presented her with a hideous book picturing cruel instruments designed to mutilate women's breasts and vaginas, with detailed descriptions of how they were to be used. In an effort to keep her balance she wrote many of his torture fantasies down. Experiencing reciprocal countertransference fantasies of a disturbing nature, as many therapists would, she wrote these down too, and kept them in a separate file, using her notes to sort out her inner reactions to this formidable patient and to help her keep her balance. She consulted other psychiatrists about her countertransference experiences with Lozano as a further aid in maintaining her distance from the response the patient was stimulating. Then, in October or November 1987, the patient broke into her office and stole many of his records. At some juncture, maybe then, or maybe at another time, he also stole the personal notes of her own countertransference responses as well. She did not know he had stolen, copied, and secretly replaced the countertransference fantasies until the family
and their lawyers began their pursuit in 1990. When she learned of the theft of his personal records on 20 November she demanded the patient return her papers, which he did, but he secretly photocopied them first.

I would have stopped the treatment at this juncture, but, as Hippocrates said, judgement is difficult. Stopping would have been perilous at that juncture. The patient was homicidal, threatening to shoot physicians and other staff at one of the hospitals where he had been confined. There was the distinct risk termination at that juncture might have provoked not only suicide, but murder as well. Furthermore, the patient was in a paranoid state about psychiatric hospitals and would have taken flight if urged to go into one; involuntary commitment would have spelled the end of the therapeutic relationship. He had nothing but that to sustain him. Appropriately sensitive to the patient’s profound horror of abandonment, Dr. Bean-Bayog persevered.

Late in the autumn of 1987 a sinister theme arises in the treatment notes. The patient began to threaten Dr. Bean-Bayog that he would kill himself and leave written materials behind for his family to discover, so they would sue her and ruin her reputation. Thus he began not only to torture her in fantasy, but with direct threats of action.
In December he was psychotic, convinced that apparatus in the laboratory where he worked was measuring his worth and finding him wanting, but this was transient. He seemed to improve in 1988. Dr. Bean-Bayog had by now begun to see him for little or no fee because his resources were exhausted. Later, in 1989, when it appeared he could again afford a small fee, the patient was enraged when asked to resume modest payment. In early 1990, having been on leave from medical school, he was preparing to resume clinical studies and the patient responsibilities that go with it. Because he had been so irregular in taking his medication, and because of the tendency to drink and abuse drugs, Dr. Bean-Bayog was concerned. Furthermore, Lozano had reported fantasies of becoming a "monster doctor", a pediatrician who would sexually abuse the children coming under his care. She recommended that Lozano should voluntarily put himself under supervision by the Massachusetts Medical Society's monitors of impaired physicians for the protection of his patients. This advice threw the patient into a rage and he refused. In March, just before he was to return to hospital work, he took an hallucinogen, began to hear voices, and to think delusionally. He went to her house in the night when she was out for the evening, banged on the windows, shouted for her, and terrified her children who were home alone.
Readmitted to the hospital for the fifth time, the patient reported he had injected himself with Ketamine (an hallucinogen) and Lidocaine (an anaesthetic) in a suicide attempt, and that he was hearing voices ordering him to kill himself. Later that Spring Dr. Bean-Bayog at last decided to get out of the case. She carefully arranged the transfer of Lozano’s care to another psychiatrist during yet another psychiatric admission. She was not willing to continue when he refused to submit to monitoring by the impaired physicians’ committee.

Five more hospitalizations followed. Not until the autumn of 1990 did he tell another psychiatrist that Dr. Bean-Bayog had been sexually intimate with him. Lozano’s sister was alerted and found the stuffed animals, the papers, the cards in the cache which he had so carefully saved for this occasion. As required by Massachusetts law, the psychiatrist then in charge wrote a letter to the Board of Registration in Medicine, detailing what the patient alleged, and describing the materials. His letter stated, "If Dr. Bean-Bayog’s conduct of his treatment has indeed been as [Lozano] describes it, she has done this patient great harm."

After temporary improvement after a course of electroconvulsive treatment the patient went to Texas to visit his family, and to continue with some medical
work which would have been credited toward his degree. He came under the care of yet another psychiatrist. After a brief overnight hospitalization in El Paso, his home, Lozano died of suicide by injecting himself with a massive dose of cocaine.

The family brought a malpractice action against Dr. Bean-Bayog on September 11, 1991. Their attorney took an extraordinary step: he filed some 3000 pages of documents with the court in March, 1992, including the treatment notes and the books and cards inscribed "Love, Mom." The newspapers seized these and the fire began to burn in earnest; soon all the media, local and national, were aflame. The Massachusetts Board of Registration in Medicine had a series of hearings and a well-known trial lawyer, John Fabiano, emerging from the Boston firm Hale & Dorr, stepped forward to volunteer his services to assist the Board in its scrutiny. The Board of Registration in Medicine was under the supervision of Gloria Larson, the consumer affairs appointee of Governor William Weld. Hale & Dorr was the law firm to which the governor belonged before his election; he must have been acquainted with Mr. Fabiano. Never before had the Board felt it necessary to appoint a special lawyer for one of its disciplinary proceedings.
The Board next announced its intention to conduct several days of public hearings in a large auditorium to which the press and television would be invited. Five television stations and cable television as well were to be present with lights and cameras aimed. European reporters were expected also. The Japanese were coming. The government of Massachusetts was preparing an extravaganza.

Dr. Bean-Bayog’s position was terrible from several points of view. In the first place, the law provides that after a patient’s death the rights to confidentiality do not lapse but pass to the heirs; the treating physician is not allowed to disclose details about a treatment without their permission, even in the course of an ethics inquiry. To do invites severe penalties. The Lozano family refused to grant permission, so Margaret Bean-Bayog was gagged, and would have been forced mutely to point only at the papers their lawyer had already filed with the court. She was forbidden to speak out about her side of the story. The press knew this, but elected not to report it. Perhaps doing so might have lessened the savor of the breakfast dishes they were regularly serving up in the morning papers at Dr. Bean-Bayog’s expense.

In the second place, the legal costs of defending herself before the Board and the national media promised to be enormous, in fact, ruinous. Though she
had understood that legal costs could be kept within reasonable limits, in less than a fortnight before the Weld administration's circus was to begin, her lawyers informed her she would have to pay them between three-quarters and one million dollars in fees and costs if they were to proceed. She would have been crushed with overwhelming debts for the rest of her life had she agreed to such a demand.

Third, the emotional cost of a gagged appearance before the Board, a large auditorium filled with sensation-hungry spectators, reporters, and cameras promised to be overwhelming. She had already taken an emotional beating from Paul Lozano and suffered the expectable pain of losing a patient to suicide. She was being assaulted by the press. Now she faced the prospect of public humiliation as Paul Lozano reached from the grave to fulfill his promise—that he would kill himself and ruin her career and reputation. The Board offered to resolve the matter if she would sign a statement admitting to wrongdoing she had never committed—she was invited to perjure herself.

It was in this context Margaret Bean-Bayog elected to resign her license to practice medicine. This step put her beyond the reach of the Board of Registration in Medicine and the prospect of a trial in the media, but it meant she could never again practice medicine anywhere in the United States. She
had already been suspended from the staff of the Cambridge Hospital, and the Harvard Medical School, where she had held an academic appointment, had hastened to drop her from its faculty. Only the Boston Psychoanalytic Society and Institute, where she was a psychoanalytic candidate-in-training, the Massachusetts Medical Society, and the American Society of Addiction Medicine refused to abandon her until she had had her day in court.

The malpractice case continued to loom. A number of experts reviewed the records on her behalf and on behalf of her malpractice insurance company. In spite of contrary opinions of experts for the Lozano family, the experts on her side, among whom I had the honor to be included, believed that Dr. Bean-Bayog stood a good chance to win her case. We did not believe her treatment caused Lozano's suicide.

The malpractice insurer advised Dr. Bean-Bayog to settle out of court. Though their experts were of the opinion her treatment of Lozano had been within acceptable standards and that her work was not a proximate cause of his death, it was feared that the enormous newspaper pressure and public hysteria might significantly affect the outcome of the trial. She was warned that an unsuccessful outcome at trial would leave her liable to enormous expenses for which they were not obliged to pay. Faced with the prospect of a punishing
public trial coupled with the strong possibility that going through with it would ruin her financially she elected to settle. Thereupon the insurance company paid the Lozano family a million dollars, and Dr. Bean-Bayog went home.

She has now retired from practice, but she has read what I am saying to you and sends her greetings to the American Association of Suicidology. She expresses her regret that she is unable to be present today; she was invited to attend our meeting by your executive committee.

I hope that what I have said to you serves to put some fairer perspectives on what I believe was an act of arson by the press. Nothing which I have said was hidden from the newspapers, yet they chose to say nothing about her side of the story, nor did they choose to report the fact she was gagged by the law's blind rules. What the press did in this case reminds me of what it did to the Scottsboro Five, and what it did to Dreyfus. You will remember how the press and the courts and the government of France sent an innocent man to Devil's Island. Something like that has just happened in Massachusetts, where the principal actors have been the Massachusetts Board of Registration in Medicine, the administration of Governor William Weld, certain lawyers, the Boston Globe and the Boston Herald. J'accuse!
Though malpractice insurance will pay for the defense of a law-suit, it will not pay for costs incurred before regulatory agencies such as the Massachusetts Board of Registration in Medicine. Typically these agencies are not bound by the strict rules of evidence which govern court proceedings. A physician challenged before the Massachusetts Board must prove to its satisfaction there was no deviation from ethical standards, and not the contrary: the person who challenges a physician does not have to prove there was an ethical lapse. It is a matter of guilty until proven innocent. A license to practice medicine is not a right, but a privilege, and such agencies have enormous discretion in what they do. They are much influenced by public opinion, and they are most certainly not above politics.

A number of psychiatrists have very properly been disciplined by the Massachusetts Board of Registration in Medicine for sexual misconduct with patients in recent years, but the Board has not been even-handed, and sometimes it has been capricious. In one case, a prominent academic psychiatrist was shown to have been sexually involved with a patient, but his license was not revoked, and his tenure was not interrupted by his medical school, where he continues to enjoy a professorship.
The Boston newspapers have taken these cases up and they have been widely reported. The Bean-Bayog case was the first involving a woman, however, and the publicity blown up around it was far greater than for any of the other cases. There was no evidence here of sexual misconduct except for what a dead patient, known to lie and bent on revenge, said about her.

This scandalous assault on Dr. Bean-Bayog has done more than to knock her out of the practice of medicine. It has had a profound negative effect on others who have been treating deeply disturbed suicidal patients for years. Many of the finest psychiatrists and psychologists in Massachusetts have told me they will no longer accept such patients for treatment. Others of us have not given up, but I would not accept a patient as disturbed as Paul Lozano unless long, continuous hospitalization were possible. Some years ago it might have been possible to keep Mr. Lozano in a psychiatric hospital continuously for several years, but this is no longer the case. Dr. Bean-Bayog tried to arrange for long-term inpatient care for Paul Lozano more than once, but nobody would pay.

We joke in Boston that it is easier to get somebody into Harvard College than into the state hospital. The state system discharges patients like Mr. Lozano quickly after the first symptomatic improvement, blinding itself to the
fluctuating nature of such illnesses as his, taking no interest in the possibility of lasting therapeutic improvement a long stay might afford. They cannot: they are very overcrowded. Private hospitalization for long periods is impossible except for the fabulously rich; insurance companies and the health-maintenance organizations will not pay. The average length of stay in good private hospitals is now about two weeks.

So I leave you here among the embers and ashes of Margaret Bean-Bayog's career. I hope the smell of smoke will linger in your nostrils as a reminder of what happened to a doctor who did her best, made some regrettable judgements under great pressure, but who certainly never exploited her patient for a personal end.

Thank you for your kind attention.