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## YOUR LIFE

### Battle of the Banned

*Couple fights court order limiting visits to nursing home*

By Barbara Basler

November 2004

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On a cold December evening two years ago, Norm and Shirley Matzek of Hudson, Wis., came home to find a lawyer on their doorstep with a temporary restraining order against them. The Christian Community Home of Hudson—where the Matzeks had placed both their mothers—had charged the couple with harassment after they persistently criticized the care their relatives received at the facility.

"Temporary restraining orders are for abusive husbands and stalkers," says Norm Matzek, a soft-spoken retired business analyst. "All Shirley and I did was complain about my mother's care."

Though the nursing home's reaction to the Matzeks' complaints was extreme, "we are hearing reports of various kinds of intimidation and retaliation from all over the country," says Janet Wells, policy director of the National Citizens' Coalition for Nursing Home Reform, an advocacy group of individuals, health care professionals and state regulators.

Federal law clearly states a nursing home

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resident's right to see family members should not be restricted except in cases of abuse, Wells says. Even so, "when family members speak up about conditions in a home," she says, "they are sometimes banished, or their visits restricted or monitored." Most disputes, even bitter ones, are settled before they reach court, so the legal action against the Matzeks is highly unusual.

The Matzeks say their problems began after they complained that an aide at the home had forced Norm's mother, Gertrude, to get out of bed and walk even though she had a broken hip. "The nursing home denied that had happened," Matzek says.

The couple then called the office of the state long-term care ombudsman, which advised them to file a complaint with state regulators and start a family council—an association of other families with relatives in the facility, the only nursing home in their small town.

The Matzeks formed a council, and families began meeting each month to discuss their concerns—from cold showers to over-medication—and to write letters of complaint to the home's administrators and to the state Bureau of Quality Assurance. "The home got very upset when we started putting things in writing," Matzek says.

Under the terms of the restraining order against the Matzeks, which is still in effect, the couple must call ahead before they visit the nursing home, enter through a specific door and refrain from talking to other residents, visitors or staff members except with a nurse on duty. When Shirley's mother, Erma Stock, receives help with bathing, dressing or feeding from a staff member, Shirley must leave the room, even though the 92-year-old cries out for her.

When the *AARP Bulletin* contacted the Christian Community Home, administrator Dan Goodier replied in writing that the

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home obtained the restraining order "as a last resort after exhausting our internal efforts to address the Matzeks' disruptive and intimidating behavior."

Nursing homes have themselves used intimidation as a tool for years, says Toby Edelman, an attorney with the Washington office of the Center for Medicare Advocacy, "but today families are better informed and more aggressive about demanding good care, so we're hearing more about it." Baby boomers, especially, she says, are apt to press their demands.

Staffing is another hot button. A recent government study found that 90 percent of the country's nursing homes are understaffed, Janet Wells says, which may help explain why more homes "are more defensive about complaints."

When Ella Puccio of Queens, N.Y., had a run-in with a nurse's aide at her mother's nursing home, "the home did not discipline the aide, they went after me. They told me I could only visit my mother in the lobby."

After Anita Bandy of Roanoke, Va., complained about her mother's care at a home, "I was punished with restricted visits for three months, and when I tried to transfer my mother to another home, I'd been blacklisted. No other home in the area would take my mother until they heard I had a lawyer."

Susan Feeney, a spokeswoman for an industry group that represents nursing homes, the American Health Care Association, says, "These are not typical situations. The vast majority of nursing homes provide quality care and encourage families to visit their relatives and play an active role in their care."

But the growing number of family complaints about nursing home harassment has galvanized advocacy and legal groups, "and all these groups are now

discussing ways to address this problem," says Ilene Henshaw, AARP state affairs analyst.

Since that December in 2002, the Matzeks have spent more than \$30,000 in legal fees trying to get the temporary restraining order lifted. They are in court again this month, and AARP has filed a friend of the court brief in their case, arguing against the order and for the Matzeks' rights.

In the meantime, Norm's mother died one night after 8:30 p.m.—the visiting deadline imposed by the restraining order. Although the home had offered to let the Matzeks stay, "the atmosphere was so intimidating, we left," Norm says. "She died later that night, without us. That was so hard, so sad. Just so wrong."

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