

# ***BLOISE & SNAVELY LAW OFFICE***

## ***NEWSLETTER***

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**283 South Hamilton St.  
Painted Post, NY 14870**

**WINTER EDITION I, 2008**

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### **A Better Way to Invest**

Are you the type who enjoys the action of the stock market, or do you lie awake at night wondering if your retirement nest egg will still be there in the morning? In times of uncertainty, it is always good to have a safe plan that you adhere to no matter what the market does. You may be content to invest only in fixed income vehicles, e.g. CDs, Treasury Bills, Corporate and Municipal Bonds; or you may favor a conservative mutual fund to get a better return without taking on too much risk. Whatever your objective and risk tolerance, a good financial planner should be part of your investment strategy.

The best financial planners cover a lot more than what investments to choose. They know enough about income taxes, death taxes and estate planning to guide you through potential, and often unforeseen, problems. Whether they address the issues themselves or direct you to other professionals, good planners

understand that these things cannot be ignored.

One of my favorite financial planning strategies is “rebalancing.” Rebalancing lets you “buy low” and “sell high” in an automated and systematic way. Here’s the way rebalancing works on a hypothetical \$100,000 investment portfolio. Assume we want \$20,000 or 20% in aggressive investments and \$80,000 or 80% in conservative investments. If the market goes 25% lower, your riskier investments would decrease more as a percentage of your entire portfolio. In other words, you would lose proportionally more of the \$20,000 than the \$80,000 because the \$20,000 was invested in an aggressive mutual fund, and in a market decline this fund would decline more than a conservative mutual fund. If the aggressive fund held \$15,000 after the market fell, then that fund would be less than 20% of your portfolio. Thus, a greater percentage of your portfolio would be in the conservative fund.

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Let's assume the conservative fund is worth \$75,000, so your total portfolio is now worth \$90,000. The \$15,000 in the aggressive fund would comprise almost 17% of your portfolio. A portfolio that rebalances would then buy (buying low) more of the aggressive fund to revert back to the original proportion of 20% in riskier investments and 80% in conservative investments. If the market had increased by 25%, then the reverse would happen -- the aggressive investments would comprise more than 20% of the portfolio and the extra amount would be sold (selling high) to rebalance the portfolio.

We know that the market goes up and it goes down. Having a portfolio that automatically rebalances is the way smart investors enjoy better returns. My financial advisor does this, does yours?



## **Lack of Power of Attorney Stops Daughter's Nursing Home Suit**

(From *ElderLawAnswers*)

A decision by Mississippi's highest court illustrates the importance of having a Power of Attorney. One of the most important estate planning documents, a Power of Attorney allows a person you appoint -- your "attorney-in-fact" -- to make financial decisions for you should you be unable to make decisions yourself because of incapacity.

Bernadette Goodlett admitted her mother, Sarah, to a nursing home. During her stay at the nursing home, Sarah developed two decubitus ulcers (bed sores), which required surgery. Bernadette informed the nursing home that she was planning to sue for negligence and sent the nursing home a medical authorization giving it permission to release Sarah's medical records. Due to complications from a stroke, Sarah was unable to sign her own name to the medical authorization. The nursing home refused to release the medical records, claiming that because Bernadette did not have a Power of Attorney over her mother, only Sarah could authorize the release of the medical records.

Bernadette sued the nursing home on behalf of her mother for negligence. The nursing home argued the lawsuit should be dismissed because Bernadette did not file a form required by state law. Bernadette argued she did not need to file the form because she had not received her mother's medical records. The trial court found that Bernadette had substantially complied with the law, and allowed the lawsuit to continue.

The Mississippi Supreme Court reversed, holding that because Bernadette did not have Power of Attorney for her mother, she was not entitled to her mother's medical records. Therefore, Bernadette could not file suit without including the required form.

Had Sarah given Bernadette a financial Power of Attorney before Bernadette requested the medical records, the lawsuit would have been able to proceed.

for people who are likely to recover from their conditions, not care for people who need ongoing help with performing everyday activities, such as bathing or dressing.

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## **Medicare's Limited Nursing Home Coverage**

*(From ElderLawAnswers)*

Many people believe that Medicare covers nursing home stays. In fact Medicare's coverage of nursing home care is quite limited. Medicare covers up to 100 days of "skilled nursing care" per illness, but there are a number of requirements that must be met before the nursing home stay will be covered. The result of these requirements is that Medicare recipients are often discharged from a nursing home before they are ready.

In order for a nursing home stay to be covered by Medicare, you must enter a Medicare-approved "skilled nursing facility" or nursing home within 30 days of a hospital stay that lasted at least three days. The care in the nursing home must be for the same condition as the hospital stay. In addition, you must need "skilled care." This means a physician must order the treatment and the treatment must be provided daily by a registered nurse, physical therapist, or licensed practical nurse. Finally, Medicare only covers "acute" care as opposed to custodial care. This means it covers care only

Note that if you need skilled nursing care to maintain your status (or to slow deterioration), then the care should be provided and is covered by Medicare. In addition, patients often receive an array of treatments that don't need to be carried out by a skilled nurse but which may, in combination, require skilled supervision. For example, the potential for adverse interactions among multiple treatments may require that a skilled nurse monitor the patient's care and status. In such cases, Medicare should continue to provide coverage.

Once you are in a facility, Medicare will cover the cost of a semi-private room, meals, skilled nursing and rehabilitative services, and medically necessary supplies. Medicare covers 100 percent of the costs for the first 20 days. Beginning on day 21 of the nursing home stay, there is a significant co-payment (\$128 a day in 2008). This co-payment may be covered by a Medigap policy. After 100 days are up, you are responsible for all costs. If you are in a nursing home and the nursing home believes that Medicare will no longer cover you, it must give you a written notice of non-coverage. The nursing home cannot discharge you until the day after the notice is given.

# DIRECTIONS

## **From North, East and West of Corning/Painted Post area:**

Take exit 44 off of Route 86 (old Route 17)

Follow signs for 15 South

Take Exit 3 (417, Gang Mills)

At the traffic light, turn right (417 East)

We are on the right hand side about 0.7 mile, in a plaza of shops.

## **From South of Corning/Painted Post area:**

Take 15 North

Take Exit 3 (417, Gang Mills)

At the traffic light, turn left (417 East)

We are on the right hand side about 0.7 mile, in a plaza of shops.

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Sign up today for our electronic newsletter. Simply email us at [snavelylaw@yahoo.com](mailto:snavelylaw@yahoo.com) and request to receive our next newsletter via email.

*“Helping people pass on assets to their families and, at the same time, avoid death taxes, probate and nursing home costs”*