

## Patient Abuse: Aide Found Guilty Of Misappropriation Of Property.

***Misappropriation of a resident's property means the deliberate misplacement, exploitation or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent.***

***A CNA who is experienced in the care of dementia patients knows that despite their normal appearances they do not have the wherewithal knowingly to give others use of their property.***

***The CNA also knew that at this facility the residents who had phones in their rooms were billed separately for their phones on monthly invoices that itemized the charges for each outgoing call, local or long distance.***

***The resident was only billed \$1.73 for nine calls by the CNA, but the size of the bill is beside the point.***

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
September 4, 2008

The family of a long-term dementia patient became concerned and contacted management at the nursing facility when they received a bill for outgoing telephone charges.

Families had the option of paying extra for a phone in the room and receiving itemized statements for outgoing calls, local or long distance. Many residents did not have phones. This resident was not up to the task of making calls herself, but the family got her a phone anyway so that they would be able to call her.

It came to light that a CNA made the calls from the resident's phone, nine calls over three days, to her next door neighbor's home and adult daughter's cell phone numbers. The charges totaled \$1.73.

The CNA was reported to the state department of health, was found guilty of misappropriation of a resident's property and was listed in the state registry of persons found guilty of abuse. The Superior Court of New Jersey, Appellate Division, turned down the CNA's appeal and upheld the department's actions.

It was irrelevant that the CNA had permission from the resident. The court labeled that argument "ingenuous." The CNA knew the resident was not capable of making a knowing decision.

The size of the bill was also irrelevant. The point was that the CNA had taken what was not hers and should not be allowed to work with vulnerable persons. New Jersey Dept. of Health v. Robert, 2008 WL 4066426 (N.J. App., September 4, 2008).