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Who Cares?
Accountability for public safety in nurse education.

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**A thesis submitted in fulfilment of the requirements
for the degree of Doctor of Philosophy in Education,
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ABSTRACT

Nursing students assessed as being unsafe by nurse educators present specific challenges in tertiary education organisations. Nurse educators and education administrators are required by law to respect the rights of students to receive education, if it is deemed they will benefit from it. As registered nurses, nurse educators are also required by law to protect the public from unsafe nursing practice. The focus of this study is the management of unsafe nursing students within the tertiary education context. The moral dilemmas experienced by nurse educators, specifically linked to the issue of accountability for public safety, are explored.

The theoretical framework for the thesis is informed by the two moral voices of justice and care identified by Gilligan and further developed using the work of Hekman and Lyotard. Case study methodology was used and data were collected from three schools of nursing and their respective educational organisations. Interviews were conducted with nurse educators and education administrators who had managed unsafe nursing students. Interviews were also conducted with representatives from the Nursing Council of New Zealand and the New Zealand Nurses Organisation to gain professional perspectives regarding public safety, nurse education and unsafe students. Transcripts were analysed using the strategies of categorical aggregation and direct interpretation. Issues identified in each of the three case studies were examined using philosophical and theoretical analyses.

This thesis explores how students come to be identified as unsafe and the challenges this posed within three educational contexts. The justice and care moral voices of nurse educators and administrators and the ways in which these produced different ways of caring are made visible. Different competing and conflicting discourses of nursing and education are revealed, including the discourse of safety - one of the language games of nursing. The way in which participants positioned themselves and positioned others within these discourses are identified.

Overall, education administrators considered accountability for public safety to be a specific professional, nursing responsibility and not a concern of education per se. This thesis provides an account of how nurse educators attempted to make the educational world safe for patients, students, and themselves. Participants experienced different tensions and moral dilemmas in the management of unsafe students, depending upon the moral language games they employed and the dominant discourse of the educational organisation. Nurse educators were expected to use the discourses of education to make their case and manage unsafe students. However, the discourses of nursing and education were found to be incommensurable and so the moral dilemmas experienced by nurse educators were detected as differends. This study bears witness to these differends.

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CHAPTER ONE

IDENTIFYING THE DILEMMA

Public safety is the primary concern of the Nursing Council of New Zealand (NCNZ) under the Nurses Act (1977) and, subsequently, under the Health Practitioners Competence Assurance Act (2003).¹ In order to ensure public safety, the NCNZ sets out conditions for nurse registration and the right to practise. Each registered nurse is accountable for his or her practice and conduct. In nurse education the emphasis is on producing safe and competent graduate nurses via a programme approved by both an education validation authority and the NCNZ. The NCNZ has no jurisdiction over nursing students in tertiary education. Any public safety issues regarding nursing students are the concern of the nurse educators², as registered nurses, and the education organisation, with its own statutory responsibilities. This thesis explores the way in which students, who present as an unacceptable risk to public safety, are managed within three tertiary education organisations. The research also investigates where accountability for public safety rests in nurse education.

The vast majority of nursing students successfully complete their nursing programmes and go on to become competent practitioners. However, when things go wrong and students present with serious behavioural or learning problems, the management of these situations is frequently difficult and often emotive. Staff and students are vulnerable and can be harmed. Some examples of the more extreme problems with students that I, as a nursing administrator, have managed have included a death threat, stalking, fraud, grievous bodily harm, and student negligence leading to patient harm. The majority of students who were considered as unsafe tended to be those who lacked awareness, insight and sensitivity, combined with an inability to learn different ways of behaving, leading to unacceptable, or dangerous, practice. The need to take death threats seriously was highlighted in 2002 with the murder of three professors of nursing at the University of Arizona (Boychuk-Spears, 2002; Smallwood, 2002). Two of the

¹ The Health Practitioners Competence Assurance Act (HPCA Act) (2003) was implemented in 2004 and replaced the Nurses Act (1977). The majority of references relate to the Nurses Act (1977), and associated statutory regulations, which was the legislation in place during data collection. Changes introduced by the HPCA Act (2003) relevant to the thesis are acknowledged and discussed in the text.

² In this thesis the term ‘nurse educator’ refers to an educator who is a registered nurse and who is employed exclusively by a tertiary education provider for the purpose of delivering nurse education.

professors had not reported that they had received death threats. The nursing student responsible for the killings stated in his suicide note that being called “unsafe” by the nursing faculty staff had been the “biggest insult” (Rooney, 2002).

The area of study for the current research became clear for me while grappling, as a nurse education manager, with yet another complex and difficult undergraduate nursing student issue. I was already familiar with the moral dilemmas and tensions created in managing undergraduate students, but each situation always presented new and demanding challenges. No two situations were ever the same; but frequently, the issues they presented seemed to coalesce regarding specific themes. Interest in the New Zealand context for managing undergraduate students was increased when, within the Nurse Education in the Tertiary Sector (NETS) group, it became clear that managing students who challenged the definition of being ‘fit and proper and of good character’, the criteria then for registration under the Nurses Act (1977), was presenting heads of school and programme leaders with difficulties relating to screening and safety. As a consequence of this discussion, a colleague and I undertook a survey on behalf of NETS in relation to the admission, progression and completion of students on undergraduate nursing programmes in New Zealand (Drake & Stokes, 2004).

This survey found that there were tensions generated for nurse educators by the requirements to work within the Nurses Act (1977) and the Education Act (1989). In addition there were problems with risk assessment and the management of students using the tertiary education institutions’ policies and procedures. The survey also confirmed that there were several issues not fully addressed in either the literature or the nurse education debate generally. These issues included the thorny question of how a student is assessed as being fit and proper and of good character and exactly what criteria were used for ascertaining these qualities (Drake & Stokes, 2004). The area that I was specifically interested in, however, was the issue of where accountability and responsibility rested in relation to the student who presented as a threat to public safety. This issue was not directly explored in the survey, but many nurse educators - lecturers, programme leaders and heads of school - reported, anecdotally, experiencing degrees of distress and moral dilemmas when managing unsafe students and were not always satisfied with the outcome or the processes they were involved in. In particular, the survey found that some students considered not to be fit and proper and of good

character completed programmes within educational institutions on the grounds of procedural justice (Drake & Stokes, 2004).

Nurse educators in New Zealand are expected to have current practising certificates, issued annually by the NCNZ, in order to supervise students in the clinical and practice environment. They require indemnity cover, provided by their employers, and they normally belong to a professional body that provides additional cover as well. Nurse educators are responsible, as registered nurses, for the acts and omissions of students whom they supervise on a nursing programme (Nursing Council of New Zealand, 2002c). They are also subject to disciplinary action by the NCNZ if they jeopardise public safety.³

Considerable tensions arise when a student's behaviour or performance on a programme is considered a threat to public safety. It could be argued in this instance that there is a conflict between the prima facie right of the student to receive education and the prima facie right of the public not to be placed in unsafe situations. This dilemma is compounded by the fact that nursing lecturers, as registered nurses, work within a philosophy of care and an ethic of care which includes a concern not just for students, but also the wider public.

This study investigates how nursing students, identified as being unsafe by nurse educators, are managed in three case studies. It explores specific issues in the delivery of undergraduate nursing programmes within the context of tertiary education. It highlights the need to make visible the ethical and moral dilemmas faced by nurse educators in their dual capacity of registered nurse and educator. It also exposes how these issues are acknowledged or not acknowledged and how they are managed within the educational context.

Nurse educators have experienced the conflicts of working within healthcare delivery systems with limited resources and complex power relationships. They are familiar

³ The primary concern of the Nursing Council of New Zealand is public safety. This is articulated for practising nurses and midwives in the Code of Conduct (Nursing Council of New Zealand, 1999). Whilst the proposed research acknowledges the importance of cultural safety in nursing in New Zealand, it is not the focus of this research. The Code of Conduct includes the requirement that nurses practise in a manner that is culturally safe (Nursing Council of New Zealand, 2002b; Ramsden, 1992).

with the hierarchies of the health care professions and the status of nursing within them. Currently there is a worldwide shortage of registered nurses. In many countries this is not solely due to pay and conditions of work. According to the literature, many nurses leave the profession because they are forced into compromising stances regarding their beliefs and values and moral integrity (Bickley, 1993; Connor, 2003).

Many nurse educators have experienced these dilemmas themselves. They are now in positions whereby they are helping to prepare students to enter the same profession and, in many instances, for even more difficult and complex healthcare delivery environments. In my experience, nurse educators are acutely conscious of their need to ensure that patient safety is maintained through education leading to good nursing practice. They consider that they are accountable to their profession as well as to their students and their students' patients.

Nurse educators are also working within the context of tertiary education. They are part of an enterprise where government funding in real terms decreases annually (Gould, 1999). They are aware of their part in the maintenance of their organisation's survival, usually via the recruitment and retention of greater student numbers, or some other form of income generation. Retaining students is important. Not only is the educational environment competitive, but also the student is considered a consumer, with the associated rights of consumers. Students now make substantial financial contributions to their education through the payment of fees. Students are becoming increasingly litigious and education providers becoming increasingly nervous regarding bad publicity emanating from disgruntled students.

There is real ambiguity regarding the screening of applicants for undergraduate nursing programmes in New Zealand (Drake & Stokes, 2004). Under the Education Act (1989) students have the right to receive education if it is perceived they will benefit from it. The requirements of professions are separate to the educational enterprise and are not considered to be the business of educational organisations. Undertaking police checks, as part of a screening mechanism for the nursing profession, varies internationally. In the United Kingdom health care providers purchase nurse education from universities. It is therefore possible, as part of the purchasing contract that includes access to clinical placements, to require students to undergo police checks as part of a regular screening

process. In the United States of America nursing schools do not traditionally screen students for criminal records, but the facility exists to do so on application for licensure (Burns, Frank-Stromburg, Teytelman, & Herren, 2004). However, Tate and Moody (2005) highlight a growing need to screen students on entry to nursing programmes for public safety reasons and not just because of the wasted expense in educating students who will not be allowed to register. They also note the fact that licensure (registration) is about public protection, but education is viewed as a right. Consequently, nurse education programmes have no legal duty to conduct criminal background checks on students.

In New Zealand, police checks as a screening device raise issues of privacy, discrimination and individual rights. Teachers are subject to police checks when they register, but nurses are not. A recent report in *The New Zealand Herald* highlighted the fact that there was currently a rush by employers to vet potential employees for sex offences and fraud. The article quoted a police inspector as saying “The education and health sectors have been described as sleeping giants” (NZPA, 2005). At the time my research commenced no school of nursing in New Zealand was undertaking police checks on students (Drake & Stokes, 2004). It is, in fact, possible to do these, with the students’ permission, as under the Education Act (1989) there is latitude to exclude a student who is not of ‘good character’. However, no definition of what is meant by ‘good character’ is provided and most tertiary education organisations wish to avoid any perception of being unfriendly, or of being accused of possible discrimination.

In my own experience in New Zealand, there has been strong resistance from senior education management to any introduction of checks and balances intended to safeguard public safety. Instead, these proposals have been perceived as draconian and discriminatory, attributes that are then often ascribed to the person making the proposal. This strategy appears to be a frequent experience for those who challenge policy and practice (Thrupp & Willmott, 2003). This response is unhelpful and serves to avoid further debate of serious issues with potentially serious consequences.

There are ongoing tensions between the needs of different educational and professional, or statutory, bodies especially in relation to curriculum development and quality assurance (Churchman & Woodhouse, 1999; Pittilo, Morgan, & Fergy, 2000) and

economic accountability (Horsburgh, 2000). In essence these represent a clash between the requirements of the Education Act (1989) and the Nurses Act (1977) and now the HPCA Act (2003). The situation in New Zealand is further complicated at present by the fact that a student can gain a nursing degree without necessarily gaining nursing registration with the NCNZ and licence to practise. The right to education under the Education Act (1989) therefore carries considerable weight.

In my experience, when nurse educators are faced with an unsafe, or failing, student they often find that the educational structures to ensure fairness and equity for all, operate in favour of the student. An appeal committee or disciplinary committee may challenge and find against the nurse educators' case, usually on procedural grounds such as inadequate or insufficient evidence, or errors in due process. One dilemma the nurse educators may face is the questioning of their professional judgment by non-healthcare professionals. This situation tends to arise when a student has failed because they have not achieved the desired clinical standard or competency. Panel or committee members may consider the student would benefit from further exposure to the clinical environment. In this situation the student may, in the nurse educators' professional judgment, pose an unacceptable risk or potential threat to public safety. This example demonstrates how a situation can arise which is perceived as being created by the educational processes and which then involves the judgment of non-healthcare professionals. Clearly this is a classic stress-inducing situation whereby nurse educators can experience a loss of personal and professional control. When professional voices are not heard, or fail to make the case, then it could be argued that nurse educators experience a working environment that undermines and challenges their moral integrity and professionalism.

It has been noted that the individual right of the student and the collective right of the public appear to be in direct conflict when there are issues regarding public safety. This study explores how nurse educators and education managers in tertiary education organisations perceive their respective responsibilities for public safety in the context of nurse education and where accountability for public safety is perceived to rest.

Tertiary education organisations produce mission and vision statements and articulate in documents and publications the principles and values that inform their service. There

are frequent promises to adequately prepare students for their future professions, respond to the needs of industry for well qualified graduates, as well as being a good employer with a safe environment for people to work and study in. I argue that if the rhetoric of tertiary education is to become a reality then the issue of accountability for public safety in nurse education needs to be acknowledged and addressed.

As will be seen in the literature review, there is little reported research or debate regarding the management of unsafe students in New Zealand, the United Kingdom or North America. Given the resources and expense involved in the management of difficult and failing students of any discipline, this gap is surprising. Whilst there exists a veritable industry concerning human resources and the management of employees, there seems little available for educators on managing problematic students in the tertiary sector. In addition, this discussion raises the question of how decisions regarding unsafe students are reached and where accountability for these decisions resides.

This research looks specifically at accountability for public safety within nurse education and the implications and consequences of this issue for students, nurse educators and organisations. The study does not aim to ‘name, shame or blame’ students, nurse educators or education administrators. Instead, it is expected that the different voices of educators will be heard and appreciated and that these different voices have implications for the management of unsafe and failing students. As such, this thesis adds to this body of knowledge and thereby makes a significant contribution to the gap in this research area.

The research question in this study is:

“Where does accountability for public safety in nurse education rest?”

The aims of the research are to:

- identify ways in which public safety has been debated and challenged in the delivery of nurse education

- investigate how challenges to public safety have been managed within the tertiary education sector
- explore the implications and consequences of challenges to public safety for nursing lecturers, students and education providers in relation to accountability
- explore factors which constrain or facilitate the management of challenges to public safety in nurse education
- contribute to the knowledge and understanding of public safety issues in the delivery of professional, vocational nurse education in New Zealand
- locate the moral dilemmas created by challenges to public safety within the framework of the ethics of care and the philosophy of education.

This study makes visible various professional and moral dilemmas in the management of unsafe students within the tertiary education sector. The different moral voices of participants are revealed and the way in which these, as discourses, produce different subjectivities is discussed. Different moral language games produce different ways of caring which impacts on the way moral dilemmas are perceived and experienced. In addition, different discourses of nursing and education are identified and the ways in which people are positioned and position each other within these discourses are demonstrated. The thesis reveals how the different discourses of education and nursing clash and compete in nurse education and explores the implications this has for accountability. It is shown in this thesis that the way in which unsafe students are managed depends upon which discourse is being used at any given time, by whom and in what context. In this study accountability for public safety in nurse education is contextual, historically located and discursively constituted.

It is anticipated that this study will open up the debate of the management of nursing students considered unsafe in their practice. The findings result in recommendations regarding academic staff development and the identification of good practice in the management of the processes and events. Ultimately, it is anticipated that the research will result in improved public safety, including the safety of students, staff and patients.

Outline of chapters

The thesis follows a conventional framework. Chapter Two provides an in-depth and wide ranging literature review locating nursing within a philosophy of caring and ethics, moral reasoning, and moral agency. It also locates the practice of nursing in the wider context of neoliberal policies and health care reforms. The available literature regarding the management of unsafe and failing nursing students, located within the contexts of health care and nurse education in the tertiary education sector, is then explored. The education reforms of the 1980s are discussed regarding their impact on the tertiary education sector and their emphasis on performativity. Chapter Three details the development of a theoretical framework for exploring the data. In particular, aspects of the work of Gilligan, Friedman, Hekman and Lyotard are used to create a framework to explore the moral, philosophical and policy issues raised by the three case studies. Chapter Four describes the methodology used for the empirical component of the research and demonstrates its congruence with the research question and the theoretical framework. Case study is the method adopted for this research with three schools of nursing, together with their respective educational organisations, providing the foci for three separate case studies. Chapters Five, Six, Seven, Eight and Nine present the findings of the research. Chapter Five specifically explores the identification of the unsafe student within each of the three case studies and makes explicit the discourse of safety. Chapters Six, Seven and Eight present, respectively, the three case studies A, B and C. Each case study is unique and raises different issues that are explored within each case study chapter. The presentation of each case study tends to follow the same structure, demonstrating how the management of the unsafe student developed within that particular organisation. The theoretical framework is used to analyse each case study and specifically explores moral voices, moral selves and moral language games in detail. Chapter Nine examines all three case studies regarding performativity and accountability in the tertiary education context. In addition, the moral dilemmas exposed in each of the three case studies are examined as differends. Chapter Ten draws the themes of moral voices, caring and accountability together to answer the question of “Who cares?” and provides the conclusion and recommendations from the research.

My research starts with the premise that nurse educators are first and foremost registered nurses and, as such, they are part of an occupational group strongly

associated with the concept of caring. While nurse educators may or may not practise nursing and teaching within a philosophy of nursing or an ethic of care, the development of an individual, personal approach to caring is normally an essential component of an undergraduate nursing curriculum. The literature reviewed in the next chapter looks at accountability in relation to moral and ethical behaviour within a philosophy of care and an ethic of care. In addition, it is shown how the neoliberal political philosophy including managerialism and the New Zealand model underpin public sector services, such as health care and education provision, and has created a different perspective on accountability. These different perspectives are crucial to this study as they begin to highlight very different discourses and subjectivities of the various actors involved in the management of unsafe students. The significance of this regarding accountability for public safety in nurse education is revealed in subsequent chapters.

CHAPTER TWO

LITERATURE REVIEW

As seen in the previous chapter, the issues raised by the original survey (Drake & Stokes, 2004) were developed into a research question with specific aims for the present study. The research question spans the worlds of nursing and education within the New Zealand context of health care and education provision. In addition, the issues of accountability and public safety are raised. The following literature review addresses these various elements of the research question in detail. Undertaking the literature review helped to identify the way in which the topic of unsafe students had been researched previously and the various theoretical perspectives informing these studies. This literature review also reflects how the current area of research was developed, as well as the emergent theoretical framework that is the subject of Chapter Three.

Nursing, Caring and Ethics

The literature regarding nursing is replete with the debate as to whether nurses are made or born and whether nursing is an art or a science beginning with Nightingale herself (1969). Mahara (1998) notes nursing initially attempted to legitimate itself as a discipline in its own right using all the trappings of positivist science and adhering to the 'received view'. However, Webster and Jacox consider, "the received view was a procrustean bed into which nursing theory could not fit, and the attempt to make it fit almost killed it" (1985, p. 23, cited in Rather, 1994, p.265). Ironically, nursing has since gained a reputation in the last two decades of having embraced qualitative methodologies, as opposed to the so-called scientific method, but is now criticised for having thrown the positivist paradigm away (Glazer, 2000).

Traynor (1999) discusses how nursing knowledge became the battleground in the 1960s and 1970s with an emphasis on the identification of concepts unique to nursing. It is tempting to trace the history of nursing and the way in which it has been written and reported, but for the purpose of this thesis, it will suffice to note that there are many

discourses of nursing. The present discussion is limited to nursing as caring and nursing as an ethical activity.

Nursing has overwhelmingly associated itself with the concept of 'caring' (Benner & Wrubel, 1989; Leininger, 1984; Watson, 1985). A brief look at the vast array of studies, books and articles shows how nursing attempts to define this concept in order to develop a philosophy of nursing and a theoretical foundation for practice (Gaut, 1983; Kyle, 1995; Morse, Solberg, Neander, Bottorff, & Johnson, 1990). It is not my intention here to participate in this debate, which is ongoing, but to make the point that the caring discourse can be interpreted as one of many in nursing. In the context of the present study, I wish to selectively highlight aspects of those discourses that are particularly pertinent to this research.

In a classic article in the nursing literature Morse et al. (1990) looked at 35 definitions of caring used in nursing. Like Gaut (1983), they emphasise the need for clarification of the concept if caring is to be retained as the essence of nursing. They identify five epistemological perspectives of caring within the literature. These include the notion of caring as (i) a moral imperative or ideal, (ii) a human trait, (iii) an affect, (iv) an interpersonal relationship and (v) a therapeutic intervention. Interestingly, Morse et al. note that, "paradoxically, nurses are caught in a dilemma created by a mandate to care in a society that does not value caring" (1990, p.5), a point originally made by Reverby (1987) and one which is often made by writers trying to make political sense of nursing in the wider context. Traynor (1999) makes the point that having caring as the unique essence of nursing is probably more a source of vulnerability than strength given that it is often not valued and that others can also lay claim to it. Dyson (1997) argues that caring as a concept was not articulated theoretically or epistemologically until the 1980s, possibly because there were many commonly understood descriptions and that 'care' and 'caring' can be used as nouns, verbs and adjectives. Johnstone (1994a) argues that caring, like the concept of 'the good', is probably not definable in any meaningful way and that nurses should learn to just accept this.

The discourse of nursing as caring has moved more recently to focus on nursing as an ethic, or as an ethic of care. There is now a burgeoning literature regarding this, paralleling that of nursing as caring, with contributors, who are frequently not nurses,

voicing strong opinions on the veracity of this development. There is sensitivity among nurses regarding academics and health care professionals, who are not nurses, informing nurses what they should do and think (Pike, 1991). As will be seen, there is a degree of sensitivity and resentment regarding this issue in the present study. Fry (1988), Dyson (1997), Johnstone (1994a) and Kyle (1995) note that an ethic of caring is now being proposed as the foundation for nursing practice. Milton (1999) emphasises the need to articulate the concept of an ethic of care, as well as caring, in the development of an epistemological and theoretical framework. Tschudin (1994) goes further arguing that, “Ethics is not only at the heart of nursing, it *is* the heart of nursing. Ethics is about what is right and good. Nursing and caring are synonymous” (p.ix). Dyson concludes, however, that the concept of an ethic of care is “too esoteric and ill-defined to be of any real benefit as a moral foundation for practice” (1997, p.199).

Seedhouse (2000), an ethicist, is critical of the attempts by nursing theorists to separate nursing from the wider context of health care delivery and health care professions. He urges nurses to develop their natural integrative tendencies in practice and avoid advocating an ethic of care as a means to combat technological medicine and economic rationalism. Seedhouse adds to the discourse of nursing as ethics, promoting the concept of ‘tenderness’ in nursing, rather than caring. He concludes that “the whole of nursing practice is a moral endeavour: *nursing is an ethical enterprise*” (p.165) and does not require separate justification.

Like Joudrey and Gough (1998), Melia (1994) questions the motives of nurses suggesting their increased interest in ethics is linked to the attempt to legitimate themselves as professionals which, she maintains, they are not. She contends that ethical issues identified by nurses are probably as much about professional territoriality and power than about any specific ethical nursing problem. Melia concludes her scathing attack stating:

It [the nursing literature] treats as unproblematic the fact that care is rather too general a notion for nursing to claim as its focus of professional activity. In other words caring can be widely defined and is something that lay people do frequently and well. It is therefore difficult to see how nursing could make a success out of constructing an ethics-of-caring literature that would further either nursing or caring. (1994, p.6)

This view contrasts sharply with those of the major nursing theorists regarding nursing as caring.

Finally, before leaving this discussion on caring, it is important to note that there is one form of caring which may be deemed to be a negative activity. Caring can be described as enabling, that is, doing for others that which they should do for themselves in order to grow and develop as human beings (Espeland & Shanta, 2001; Sumsion, 2000). Enabling as caring has been associated with women in general and nurses in particular (Schaefer 1987, cited in Espeland & Shanta 2001). Whilst this concept has been criticised in the feminist literature as one more example of pathologising the behaviour of women it has also been recognised as a problem in relationship, not in individuals, and associated with tensions between dependency and interdependency. In particular, the construct of enabling has been linked with the moral development of both men and women and the definition of themselves as moral agents. Gilligan (1982) also provides a discussion of dependency and interdependency in relationships and in the development of moral reasoning. This argument is extended by feminists Hekman (1999a) and Ferguson (1984) and is discussed further in Chapter Three. In this study the concept of enabling is used in the context of relationships, and as a disempowering activity, not an empowering one as in the common usage of this term.

Nursing and Moral Agency

The issues of moral agency, moral distress and nursing practice have frequently been debated (Fry, 1988; Hunt, 1997b; Jaeger, 2001; Kelly, 1998; Nathaniel, 2002; Pask, 2001; Pike, 1991). Jameton considers “moral distress arises when one knows the right thing to do, but institutional constraints make it nearly impossible to pursue the right course of action” (1984, p.6, cited in Nathaniel, 2002, p.3). Nathaniel (2002) notes moral distress is a serious problem in nursing and considers it to be a significant contributing factor to nurses’ loss of integrity and dissatisfaction with their work. Kelly (1998) looks at new graduates and the way in which they adapt to their new role. She identifies a process developed by new graduates to preserve their moral integrity and found this was the dominant psychosocial activity for this group. However, the effort involved in trying to preserve moral integrity resulted in varying degrees of moral distress.

Jaeger (2001) reports stories from nursing students regarding their moral dilemmas, which challenge the impracticality of philosophical theory. Jaeger argues that the moral sensitivity exhibited by these students in these situations became a moral imperative. However, because of the practical failure of moral theory within the organisational context, there is a danger that nurses may lose their capacity for moral sensitivity. Jaeger differentiates between moral sensitivity and moral reasoning, identifying moral sensitivity as the capacity for relatedness that is indispensable to moral theorising. Moral sensitivity can be cultivated, or undermined, by health care administrators and the conditions within which health care is delivered. The way in which moral sensitivity is taught, therefore, becomes a crucial factor in how a nurse will be able to develop this ability.

Hunt (1994c) maintains that student nurses already have the wherewithal for making moral and ethical decisions and that they are not morally ignorant. He argues students already have respect for others, understand promise-keeping and privacy, and are honest. In another article, Hunt comments, in relation to personal and domestic morals, that:

I think there is little doubt that western societies are facing the possibility of widespread sociopathy, at least in the great cities. If people do not experience care and concern as babies, as children, and as adolescents, then nothing much can be expected from them in terms of either professional ethics or civic morals. (Hunt, 1997b, p.33)

He goes on to ask whether we would expect individuals who act with total unconcern and irresponsibility to behave decently as professionals. As will be seen in the discussion of unsafe students, the assumption that nursing students do in fact have the wherewithal for making moral and ethical decisions is seriously challenged.

Pask (2001) discusses how nurses' capacity for moral imagination is crucial in relation to the care received by the patient. She takes a psychological approach in her analysis linking the capacity for moral imagination and moral agency to each individual nurse and their emotional state. She describes how some nurses do not care in the fullest moral sense, which involves respecting and recognising the patient as a fellow human being. Instead they are focussed on projects, things, and events and they reduce their

activity to technical doing. Dreyfus and Dreyfus (1986, cited in Benner, Tanner, & Chesla, 1996, p.2), have described this type of activity as “thoughtless mastery of the everyday” undertaken without conscious deliberation. Hunt (1994a) describes it as the ‘metaphysics of procedure’ whereby procedures are adhered to in the form of uncritical habit and routine and run counter to humane caring. Dreyfus and Dreyfus note Aristotle’s argument that it is necessary at some point to use judgment on how to apply the rules, plus there are dangers inherent in using rules without judgment. The application of rules and the process of decision-making form a significant component of this study and will be returned to in subsequent chapters.

Benner et al. (1996) provide evidence of how nurses have a fundamental disposition towards the good and illustrate a moral dimension and an ethic of care in their practice. In their analysis of narratives, it is clearly demonstrated that the traditional medical model of diagnosis-treatment and disengaged, scientific, problem-solving is not utilised by competent, proficient and expert nurses when making clinical judgments. The work of Benner and her colleagues provides exemplars of how nurses engage in what is described variously as ‘ethical comportment’, ‘engaged moral and clinical reasoning’, and ‘ethical reasoning’. Benner et al. conclude that:

Nursing, as a caring practice, goes beyond theory altogether and shows that, where human meaning is at stake, one needs a kind of intuition that can never be captured by rational theory. Thus the practice of nursing reveals what 2000 years of western thinking has tended to deny: that theory is dependent on practice and reason requires intuition. (1996, p.30)

While there is a distinct emphasis on individual psychology within the work of Benner et al. they affirm that caring practices, the main focus of the book, cannot be reduced to abstract concepts or psychological attitudes. They argue that “embodied caregivers” must carry out caring practices, and caring must be “embedded in actual caring practices.” They go on to say:

Practical moral reasoning and skilled ethical comportment ultimately determine our moral possibilities. Procedural ethics based upon rights and justice alone cannot answer all the hard questions about what constitutes care and how we ought to care, because principle-based ethical discourse is not automatically translated into everyday ethical comportment, engaged ethical narratives, and genuine care. One can be well versed in ethical principles without noticing the actual qualitative distinctions and ethical concerns in actual practical situations. (Benner et al., 1996, p.254)

In many ways this statement echoes the thoughts of Hunt (1994a) earlier. However, Benner et al. are attempting to rescue 'care', and argue the primacy of care and caring, like many before, by grounding this in the analyses of narrative and articulation of practice. They also make the distinction between a rights and justice and a care perspective and these are expanded on in Chapter Three.

According to Johnstone (1994b), doctors, physicians and administrators do not consider that nurses have any responsibilities regarding moral decision-making; they are morally incompetent and inferior. The reason given for this absence of responsibility is that nurses are not in control of the resources, or of medical and legal decisions, and therefore they have no independent moral decisions to make. Johnstone states categorically that this deficit view is both misleading and incorrect. In fact, "nurses have as much independent moral responsibility for their actions (and omissions) as they have independent legal responsibility, and are just as accountable for their practices morally as they are legally" (1994b, p.5). This view is contentious. For example, Chiarella (2002) provides an account of one Australian registered nurse who attended four separate hearings regarding her care of one man in a rural hospital setting. All four hearings, including an inquest, attributed varying degrees of accountability, responsibility and blame regarding the patient's death in a police cell, to the nurse and to the hospital. Only recently have the experiences of nurses in the judicial system been reported in the literature (Burgess, 2002; Chiarella, 2002; Young, 1994). However, it could be argued that if nurses have so little accountability or responsibility for their actions in law or morally, as Melia (1994) claims, then indemnity insurance and liability cover, not to mention professional regulation and codes of ethics, should not be deemed necessary.

Hunt (1994a) maintains that the real problem is that public accountability of health care management is unresolved. He links the rise in the popularity of ethics to the failure of healthcare to be publicly accountable. For him the danger is that a "democratic deficit is being filled with philosophical jargon" (p.6). Hunt warns that the theories and principles of ethics may be used to fill what he considers to be a moral void in the health care system and argues that the rise of ethics has a great deal to do with the public loss of confidence in health care in the West.

Nursing and Managerialism

Fry (1988) asks if an ethic of caring can survive in nursing within the context of health care delivery in the United States of America. She identifies the shortage of nurses, unsafe staffing, and the introduction of user-pays policies as factors that threaten the ethic of care in nursing. Warelow (1996) looks at the difficulties of articulating caring as the essence of nursing within a context of economic rationalism and challenges nurses to adopt a new perspective, that of the patient. Yarling and McElmurry (1986) bring together the individual position of the nurse within the organisational structure of the hospital and the context of health care delivery. They argue that, in the context of hospital nursing, nurses are not free to be moral because they are deprived of the free exercise of moral agency, they are not free from forced choice. They cite similar conclusions from other researchers who demonstrate how institutional constraints, and the social position of nurses within hospital hierarchies, conspire to prevent nurses from practicing nursing in the true sense. These situations place nurses in moral predicaments.

Yarling and McElmurry point out these predicaments arise when there is a conflict between the prima facie right of the hospital and the prima facie right of the patient and nurses are faced with making decisions. Nurses have obligations to both patients and their employer. Nurses, as employees, are frequently forced to choose the interests of the hospital over those of their patients. Yarling and McElmurry state:

They are not free to fulfil their moral obligation to the patient when the interest of the patient is in conflict with the interest of the hospital. They are not free to act apart from the risk of serious harm to their own well-being. They are asked to choose between patient interest and their own self-interest, between their commitment to autonomy and well-being of their careers, between moral integrity and professional survival. (1986, p.65)

In many respects this position mirrors the dilemmas faced by nurse educators who have obligations to students, their profession, and their employees - the educational institutions. The concept of making forced choices is explored in more depth in the discussion of moral dilemmas and different voices in Chapter Three.

Hunt (1994a) poses the question as to whether it is possible for people to care for other people on condition they do so in a system which exerts control over what they do and how they do it. Like Yarling and McElmurry, Hunt reports nurses frequently express unease about the lack of freedom to care for patients as they would wish. Hunt comments that nurses face ethical decisions regarding their freedom to provide what they consider appropriate nursing care. Specific institutional constraints on practice emerge, including the biomedical model and ‘hierarchical technocracy’, a form of command and control. Extending the discussion to professional boundaries, Hunt asks how far these, within the structure of health care systems, produce the context in which ethical issues are actually created, and then prevented from being identified, or resolved (Hunt, 1994a, p.12).

The nurses in Fitzgerald and van Hooft’s (2000) study found that it was the health care system and supporting health care bureaucracy, founded on a duty of care, that placed boundaries on the role of the nurse. They describe how nurses responded to this situation by practising within what they labelled the ‘safe ground’. This safe ground “protects a person from legal liability, professional critique, and/or personal harm” (Fitzgerald & van Hooft, 2000, p.4). To move away from this position is to place oneself at risk. In their study they found, “The duty of care has caused caring in nursing to be benchmarked at the level of what is reasonable rather than of what is admirable, and of what is observable and measurable, not of what is invisible and unpredictable,” producing a context in which love could not emerge (Fitzgerald & van Hooft, 2000, p.5). This conclusion reflects the need to make the situation safe, and the need for safety nets. The issue of safety is discussed in more detail in Chapter Five.

Hunt (1994a) comments that one way of resolving these types of dilemma is to refer to the policies and procedures and administrative paraphernalia. This way “Doctors are absolved from ethical worries by a strict concern with science and technique, nurses by a subordinate position and preoccupation with procedures, managers by a concern with money and efficiency and politicians by a concern with the economy” (Hunt, 1994a, p.13). The end result, Hunt argues, is that patients and the public are disempowered and responsibility and accountability are fragmented. The situation above could be described as dehumanising and demoralising, diminishing the activities of those who wish to care for each other.

In a later publication, Hunt (1997a) argues that procedural reductionism undermines good practices and replaces accountability with occupational subordination. Johnstone (1994a) supports Hunt's argument when she describes how hospital and organisational policies can be used to legitimate actions and settle conflicts of opinion. She warns that this can pave the way for uncompromising control that can be morally iniquitous. Within hierarchical systems of authority it is often difficult to identify who is to be held accountable, as has been shown in New Zealand in relation to the Cartwright Report (Cartwright, 1988) and various practices at the National Women's Hospital in the 1980s, and the more recent Gisborne inquiry into cervical screening (Duffy, Barrett, & Duggan, 2001). Johnstone, in her discussion of feminist moral philosophy, notes that who acts in a given situation has enormous bearing on determining responsibility. If the situation is decontextualised and the individual abstracted, in the tradition of moral philosophy, responsibility becomes diffused (Johnstone, 1994a).

Benner (1994) also identifies the dangers inherent in the economic and public structures of care. She states, "We have systematic patterns of domination and subordination built into our structures of caregiving. ... Our public and ethical discourses are constrained by utilitarian individualism, expressive individualism, and ethical discourses based on rights and procedures for ensuring justice" (Benner, 1994, p.42). Similarly, Phillips notes:

We have fallen short of the democratic ends we sought to achieve with procedural justice, technology, and strategic planning, and there is a creeping despair as we consider the monumental challenges of repairing our public institutions. ... In the helping professions, both ethically and practically, the provision of good care cannot be sustained solely by decisions about who has a right to what. An adversarial system of rights discourses exclusive of regard for meaning, concerns and the practical knowledge embedded in practices not only blinds us conceptually, practically it yields an insufficient environment for the flourishing of patients, students, clients, and others in need of care. (Phillips, 1994, p.4)

In this environmental climate the exhortations by Cash (2001), Pask (2001) and Johnstone (1994a), for nurses to take action and challenge the dominant model of managerialism seem to be rather optimistic and unrealistic, given the strength of the neoliberal political philosophy underpinning the various health care reforms in the West (see the later section on the Tertiary Education Sector for a more detailed discussion of

neoliberalism). In her discussion of organisational theory, Ferguson (1984) provides a feminist case against bureaucracy. She articulates a critique of the literature of public administration describing it as “theoretically impoverished, politically dangerous, and, all too frequently, morally bankrupt” (p.80). Ferguson discusses how administrators have appropriated various political and economic theories, such as public choice theory, without engaging in the debates that surround them, such as that within the philosophy of science. In New Zealand, a description of how the public management reforms conform to the principles and practices of managerialism or, as it is otherwise known, ‘new public management’, is provided by Boston, Martin, Pallet and Walsh (1996). They describe a particular New Zealand model underpinned by ‘public choice theory’ and ‘agency theory’ that, together with ‘neo-classical economic theory’, is expected to increase accountability. In addition, because the model assumes individuals are rational, self-interested, utility-maximisers, the separate interests of the so-called agents and principals are bound to clash. Furthermore, within this model contracts between parties assume a high degree of co-operation and commitment as befits long-term arrangements, with mutual trust rather than legal sanctions being the crucial ingredient. In my own experience of contracting between so-called education providers and health care providers, in the United Kingdom and New Zealand, there were annual contracting rounds all of which involved varying degrees of acrimony, tension and economic wrangling. Mutual trust was not a prominent ingredient.

Traynor (1999) concentrates on exploring managerialism and nursing in the context of the national health care system in the United Kingdom. His research describes an ascending rationality in the NHS trusts he studied and the responses to this particular discourse by a number of nurses. Traynor succeeds in making visible the context of economic rationalism and modernity. In particular he critiques “the loss of space for difference in the wake of this powerful vision” (1999, p.2). His research looks at how nurses and managers describe themselves in strong and sometimes hostile opposition to each other. Influenced by postmodernism, he shows how managers tend to characterise their nursing workforce as irrational, fearful and traditional. The nurses describe themselves in terms of moral agency and self-sacrifice, especially in the face of exploitation by their managers. This description resonates with the earlier discussion of nurses as moral agents, and an ethic of care, as one of the many discourses of nursing.

Fitzgerald (2004) argues that an unintended consequence of the health care reforms in New Zealand has been a division of the labour process of care and that this has led to profound ethical consequences. Fitzgerald reports how managers, administrative officers, computer programmers, and computer analysts have appropriated the concept of care in one New Zealand hospital, leading to a bifurcation of carework. Fitzgerald, like Traynor, found discord and extensive ill will between occupational groups as an outcome of the struggle over the interpretation of the meaning of care and the emergence of an abstracted concept of care, as opposed to a relational and embodied concept of care. Fitzgerald, an anthropologist, does not take a postmodern approach although she highlights an issue regarding the use of language when she states:

The lack of a common language between carers in this site ensured that shortfalls in care were misinterpreted and their significance denied through the paradoxical outcome of efficiency measures so focused upon the means that they neglected to observe the ends achieved by their implementation. The need to discover a common language between these styles of care remains a central social and ethical problem for cosmopolitan medicine in New Zealand and quite possibly beyond. (Fitzgerald, 2004, p.10)

I argue in this study that the search for a common language is misguided and simply not possible. It is interesting to note in Fitzgerald's study that the adoption of 'care' by computer programmers and analysts has more than a passing resemblance to Lyotard's argument regarding the commodification of knowledge. This is returned to in Chapter Three.

Coney (n.d.) discusses the ethical implications of the New Zealand health care reforms and the language of economic rationalism. She claims that ethical issues have been placed on the 'back burner', if they are considered at all. In addition, because health care delivery is now treated as something to be counted, an economic equation, the complex process of interaction between patients and professionals is ignored. Coney also makes the point that nursing ethics is not congruent with the business goals of the new health care delivery organisations. The task for nurses is to reclaim the genuine language of health care by resisting the economic language. Nurses are also expected to expose unethical practices, protect the public and create change, but only if they maintain the moral high ground in the health care sector as neutral, unself-interested practitioners.

Public Safety

An initial search revealed very little for the terms ‘public safety’ with ‘nursing’ and ‘students’ in the nursing and nurse education literature. The majority of literature regarding safety related to professional practice by registered nurses. However, the concept of ‘safety’, in relation to nursing, is not straightforward.

The Nursing Council of New Zealand (NCNZ) defines ‘safety’ as follows:

Safety refers to nursing or midwifery action to protect from danger and/or reduce risk to patient/client/community from hazards to health and wellbeing. It includes regard for the physical, mental, social, spiritual and cultural components of the patient/client and the environment.

Unsafe nursing or midwifery practice is any omission which endangers the wellbeing, demeans the person or disempowers the cultural identity of the patient/client. (Nursing Council of New Zealand, 1999)

However, this definition could mean all things to all people and is, as Smythe (1998) notes, somewhat overwhelming as it implies responsibility for what you do and for what you do not do. Smythe points out, in her research on midwifery practice, ‘being safe’ is a taken for granted assumption as we think we know what it means. However, this assumption comes into question in the context of midwifery practice. For example, there can be tension between personal and professional judgments, based on experience, as opposed to those judgments based on research evidence backed by the so-called gold standard of randomised control trials. Being safe then becomes a dilemma between doing and not doing, and knowing what to do. In addition, midwives reported there were times when safety was beyond their control - they could react and respond, but they were unable to always make the situation safe. Having explored what being safe meant for midwives and mothers in childbirth, Smythe identified that there were two opposing powers - those who say you must act without permission and those who say you must do nothing without permission - with either one cancelling the other out. Smythe concludes that being safe for midwives and mothers, “dwells in vulnerability” (1998, p.ii).

The primary concern of the NCNZ is public safety and the protection of the public (Nursing Council of New Zealand, 1999). One of the mechanisms used by the NCNZ for protecting the public is the approval of education programmes to prepare students to meet specific standards. At the time the present study was undertaken, students were required to fulfil the three criteria within the Nurses Act (1977) for entry to the register. These were that (i) they had completed a NCNZ approved programme in nursing; (ii) they had demonstrated competencies for entry to the nursing register and (iii) they were fit and proper and of good character and reputation (see Section 19(a) Nurses Act 1977). Under the new Health Practitioners Competence Assurance Act 2003 (HPCA Act), the third criterion has been changed. This requirement now emphasises communication; the presence or absence of any mental or physical condition that might mean the applicant is unable to practise as a registered nurse; and whether the applicant's registration would or would not endanger public health or safety. Assessment of the previous, and present, criteria are normally delegated to heads of school of nursing who sign a declaration to the NCNZ on completion of a student's programme. However, the head of school is not *required* to 'sign-off' a student, as this is the statutory business of the NCNZ. There were no clear definitions of fit and proper and good character provided by the Nurses Act (1977), or the Nurse Regulations 1986 and Amendments.

A similar situation is found in the United States of America. Marrs (2004) explores the concept of 'moral turpitude' as a commonly used indicator of good moral character and a requirement for eligibility for nursing registration in the United States of America. Marrs reviewed the application process for licensure, and the various nurse practice Acts, rules and regulations, in 50 states. She found references to moral turpitude, or 'moral character', in approximately 50% of the States' documentation, but there were no definitions as to what these terms actually meant. Champagne, Havens and Swenson (1987) also surveyed the directors of state boards of nursing in all 50 States and two United States territories regarding competence criteria for a license to practise as a nurse. They found that of the 38 boards that responded, none defined specific criteria for mental and physical health. The decision regarding what would prevent an individual from practising safely and competently was, in effect, shifted to schools of nursing. Champagne et al. make the point that the real concern of the school should, in theory, be whether the applicant is able to meet the requirements of the curriculum rather than the nursing profession. This tension is also an issue in the New Zealand

context as it is entirely possible for a student to obtain a degree in nursing, but not register as a nurse with the NCNZ if they are considered not to be fit and proper or of good character. In addition, some education institutions emphasise the right of the student under the Education Act (1989) to receive education, if it is deemed they will benefit from it, via student charters, organisational principles and mission statement, as well as ensuring student support for complaints and grievances. This educational right might then be perceived as taking precedence over the needs of the nursing profession. This situation, in turn, raises questions about the perceived benefits of a nursing degree in relation to its 'use' value rather than its 'exchange' value as discussed by Lyotard (see Chapter Three and Chapter Nine).

As regards information for students, the NCNZ does make a leaflet available which attempts to provide an explanation of 'fit and proper and of good character and reputation', but which, in reality, only emphasises a high level of trust and integrity and the need to declare criminal convictions. It explains that the NCNZ can make no definitive decision regarding registration for students with criminal convictions until they are ready to apply for registration at the successful completion of their programme (Nursing Council of New Zealand, 2002d). The NCNZ is not able to state categorically that a student may never register as this would imply that change, or rehabilitation, was not possible and therefore could be interpreted as being discriminatory.

Johnson (2000) does not enlarge on what it means to be 'fit and proper and of good character' even though she provides an excellent introduction, from a legal perspective, to law, rights, negligence and ethics as they relate to nursing. Johnson does, however, make reference to the case of a nursing student declined the opportunity to sit the State examination by the High Court of New Zealand in 1981 on the grounds that the applicant was neither a person of good character and reputation nor fit and proper. This case is also cited by Burgess (2002) who points out that fitness and properness for entry to the profession, albeit an important criterion, is just one of several to be met. The point she emphasises in quoting the 1981 case is that the NCNZ have the power, the statutory right, as upheld by the High Court, to refuse a student entry to the State examination. Of more interest here however, other than that the NCNZ's authority was recognised, were the reasons given by the judge regarding the student not being fit and proper. It was not so much that the student had obtained a degree by false representation

for self-administration and used it during the course of his duty, over which there was little doubt, but the fact that the student had lied. The judge stated:

I have concluded that his (the student's) ability to distinguish between truth and falsehood is flawed...it has been shown that he lied to his nursing colleagues to deceive them into doing something contrary to nursing practice, and he subsequently lied to his superiors in a way which is quite untenable in nursing and hospital professions... a very great anxiety must be given to the trustworthiness of persons who are to be registered nurses. (Jeremy John Williams v Auckland Hospital Board and Nursing Council of New Zealand March 1981 High Court of New Zealand, Administrative Division, Judge Speight, cited in Burgess 2002, pp.77-78)

As Burgess (2002) points out, the NCNZ attempts to resolve situations whereby a head of nursing deems a student to not be fit and proper or of good character on the application for the State examination. Students are normally invited by the NCNZ to present their case to the Pre-registration Committee. However, in their survey, Drake and Stokes (2004) note the heads of school of nursing were not asked to attend these hearings and were not contacted for further information. There arose then a contradictory situation whereby the 1977 Nurses Act, and subsequent Amendments, did not give any definitions of 'fit and proper and of good character' and so this was left to the professional judgment of the head of school of nursing. However, the NCNZ's Pre-registration Committee, comprised of nurses and lay people, then used their professional and lay judgment regarding fit and proper and good character to reach a final decision, often overturning the head of school's decision (Drake & Stokes, 2004). It remains to be seen whether the new criteria for registration provided in the HPCA Act (2003) clarifies the process and helps to resolve the dilemma or, alternatively, creates new problems for heads of school.

As noted in Chapter One, the Education Act (1989) also states that a student may not be eligible to be admitted to a programme of study if it is deemed they are not of good character (Section 224 (13), Education Act, 1989). Again, no definition of good character is provided. In addition, the Education Act (1989) places a duty on the education providers' Council to ensure proper standards of integrity and conduct concerning public safety are maintained. In the case of *Malster vs Manakau Polytechnic*, Judge Morris referred to this duty in relation to a student who had exhibited unsatisfactory behaviour. The student had been found to be clinically unsafe,

a potential risk to patients, had subsequently been refused permission to repeat a course, and then had her enrolment cancelled. Judge Morris stated, “It would be intolerable to require a polytechnic to wait until the end of a three year Nursing Course to fail a student who was not fit and proper to be a nurse” (Malster v Manakau Polytechnic, August 1996, p.26).

As can be seen, this position contrasts with the inability of the NCNZ to make any definitive decision regarding a student’s eligibility for registration until they have completed a programme. The NCNZ has no jurisdiction over the student while on an undergraduate nursing programme and this position remains the same under the new nursing legislation.

Managing Failing Students

The majority of literature concerning how failing nursing students have been managed in tertiary education organisations is overwhelmingly North American and focuses on legal, judicial and procedural issues. Paterson and Lane (2000) primarily consider the legal framework of nurse education programmes and promote the formulation of rigorous policies and procedures to ensure legal duties are fulfilled. They begin their article by locating nurse education in the wider context of higher education and the traditional academy. They specifically address the issue of public safety in their article and note that nurse educators have a responsibility for their students as well as the protection of the public:

Nursing faculty must continually weigh and measure the ability of the student against the potential for risk to a patient ... the faculty and school must hold fast to existing professional standards and to protect the public without being unjust to the legitimate interests of students. (Paterson & Lane, 2000, p.17)

Paterson and Lane take the approach that it is a question of upholding standards and ensuring due process. While this does begin to point to the tensions that exist for nurse educators working with dual responsibilities as educators and registered nurses, the development and establishment of structures and policies to support due process and the management of students, is presented as unproblematic within the wider higher education context.

Boley and Whitney (2003), Chasens, DePew, Goudreau and Pierce (2000), Osinski (2003) and Smith, McKoy and Richardson (2001) all look at the legal implications and consequences of student failure and even quote the same United States court cases. Like Paterson and Lane, they all emphasise the need for policies and procedures for ensuring due process, fairness, and the rule of judicial deference. Again, like Paterson and Lane, the introduction and implementation of needed changes is presented as unproblematic.

Osinski (2003) looks at student rights and states in her opening sentence that, until recently, the issue of misconduct among nursing students in higher education has received little attention. However, of the 11 references quoted, only six relate to student performance or behaviour, and only two were written within five years of the article's publication. Osinski (2003) addresses issues of due process, but adds little to the existing debate. Quoting research by Daniel, Adams and Smith (1994), she rightly notes, though, that misconduct by nursing students violates principles of integrity, jeopardises the lives and welfare of human beings, and places organisations in litigious situations.

Boley and Whitney (2003) note the subjective nature of grading clinical performance in their discussion of landmark cases, but add that nurse educators may avoid failing a student for fear of litigation. They state that nurse educators sometimes second-guess their evaluations and may also give students the benefit of the doubt, even though they have failed in clinical practice. This action may jeopardise safe, effective nursing care and, I would add, therefore pose a potential threat to public safety.

Smith et al., (2001) look at the legal issues related to failing students on nursing programmes and, specifically, the rule of judicial deference and the importance of due process. They propose principles to guide clinical evaluation to ensure due process is followed and careful and deliberate decisions are made. Smith et al. begin their article by acknowledging that although clinical educators have legal, ethical and professional responsibilities to ensure safe practitioners, they are often reluctant to fail students. Somehow failing a student on a clinical assessment is "fraught with anxiety, uncertainty, and second-guessing" (Smith et al., 2001, p.33) due to the subjective element involved in clinical evaluation, but which is not present in purely theoretical

assessment. They add that the situation is worsened when the failure occurs towards completion of the nursing programme and when much has been invested by student and faculty members, or when a student has consistently performed well in the non-clinical components of the programme. However, like Boley and Whitney (2003), Smith et al. (2001) attribute the discomfort of nurse educators to fear of litigation and imply that this will be removed once the proper processes and procedures are enacted.

I remain unconvinced by the arguments presented above because, however rigorous the policies and procedures may be, they are always tested and often found wanting when challenged by the litigious student. I would argue that much of the anxiety and discomfort experienced by nurse educators concerns the context in which grades may be challenged, and the fact that their professional judgment comes into question. In addition, lecturers have often formed professional relationships with students during their educational experiences and so failing a student is not so straightforward as applying a principle or criterion. After five pages on due process and contract law outlining all the litigious pitfalls educationalists may fall into Chasens et al. conclude, "Although students may bring legal action against educators and educational institutions, educators need to trust in their professional judgment to maintain the standards of the profession" (2000, p.372). I will show from my analysis of empirical data that trust in professional judgment is not nearly as straightforward as suggested by Chasens et al. In addition, it appears from those articles that concentrate on the litigious nature of nurse education, that nurse educators spend an inordinate amount of time and energy in building cases for failure. This phenomenon was found in the present study and reasons for this behaviour will become evident in subsequent chapters.

In the case of *Malster vs Manakau Polytechnic* the application for judicial review was made on the grounds of the denial of natural justice. The rule of natural justice, otherwise referred to as procedural fairness, requires a decision-maker to give a person a proper, unbiased hearing before making any decision that affects that persons interests. In this case the student, Malster, argued that Manukau Polytechnic had treated her unfairly as she had not been afforded an opportunity to repeat a clinical component. She argued, therefore, that she had been denied an opportunity to improve her performance. However, the judge considered the Polytechnic had applied their policies, procedures and protocols with rigour, and their decisions were confirmed.

The right of students to question professional judgment is controversial, as illustrated in the dialogue between Orchard and Brooke who present differing arguments (Brooke, 1994; Orchard, 1994b, 1994c). Orchard (1994b) looks at what she considers to be the competing rights of nurse educators and of students, with grievance and appeal hearings having a mediating function. She argues that nurse educators have the right to make professional judgments, but because these are based on both objective and subjective criteria a degree of bias may be present. Her emphasis is on due process and the need for academic staff to be rigorous regarding their responsibilities and obligations, so that student rights are protected. Brooke (1994) counters this argument with the observation that faculty usually err in favour of the student until patient safety becomes too serious to ignore. Of interest here in this dialogue is that, in her research in Canada, Orchard (1994a) found that nurse educators' clinical evaluation decisions could be altered by non-academics within the grievance and appeal processes. Brooke maintains however, in her experience in the United States, administrative committees only overturn a nurse educators' professional judgment on procedural grounds.

McSherry and Marland (1999) in the United Kingdom note the diversity and inconsistency of assessment methods between universities (see also Norman, Watson, Murrells, Calman, & Redfern, 2002) and argue that academic and professional standards are at risk of becoming systematically fragmented. Of specific interest here is their finding that committees hearing student appeals against discontinuation may not include a nurse, and then only focus on academic issues, not professional nursing issues. They conclude that student discontinuation should not be solely under the jurisdiction of deans and directors.

Poorman, Webb and Mastorovich (2002) attempt to use what they describe as narrative pedagogy to analyse the 'lived experience' of students, in the United States, who self-identify as 'academically at-risk'. They found that there was a raft of student expectations of lecturers, many of which were not communicated. These behaviours included the expectation that the lecturer would get to know and understand them and their personal situations, and have solutions to their problems. Themes relating to helping and hindering students emerged from the student stories including having the teacher actively offer help, instead of waiting to be asked for help, and not allowing

students to pass, through misplaced concepts of caring, only to have the student fail at the final hurdle. According to the authors, there is an assumption that nurse educators are moving toward a paradigm of partnership and caring, but this is being challenged by the finding that the students did not feel that their teachers cared about them. Furthermore, students considered that, in paying fees, they had in fact paid to be cared for. This finding was not specifically commented on by the authors although it raises major questions concerning the user-pays philosophy and the nature of caring.

The evaluation and assessment of clinical practice presents different challenges both in the process and context in which it takes place, and the evaluation tools used. Scanlan, Care, and Gessler (2001) focussed specifically on the unsafe student in clinical nursing practice taking a judicial approach to the problems regarding safety. Their article emphasises social justice and the legal and justice framework in which clinical evaluation takes place. Once again, due process and justice concepts such as fairness, equity, duties and rights, are emphasised. They conclude that if these concepts are incorporated into policies and procedures then issues related to clinical evaluation can be dealt with more fairly.

Scanlan et al. (2001) found no clear definitions of safe and unsafe clinical practice, or guidelines and policies for dealing with unsafe students, in the nursing literature. They therefore undertook an Internet survey of schools of nursing in Canada and the United States to discover what others had produced with respect to this. They found that for the majority of those who responded, and no figures are given, that there were no established criteria for safe or unsafe student practice and that overall it was left up to each school to decide whether the student was unsafe. However, within their own faculty, Scanlon et al. found that there was in fact consensus regarding what constituted unsafe students, although this was found to be subjective. The clinical teacher, for example, might be unhappy about leaving the student alone, or the student may not demonstrate insight into his or her own strengths and weaknesses in clinical practice. Importantly, they note that although much is written about how to evaluate students in the clinical context little has been written about how to deal with, or manage, unsafe students. Rittman and Osburn (1995) report the same gap in the research and literature.

The article by Scanlan et al. (2001) opens with an acknowledgement that clinical evaluation is one of the most difficult and emotionally charged practices in clinical teaching. However, the implication is that this will be resolved by attending to the legal and judicial framework surrounding policies and structures. While the authors provide a much needed discussion on how to manage unsafe students they do not address the ethical dilemmas that these students present for teaching staff and practitioners, even though it is acknowledged in the article that these exist. In addition, the introduction of new policies and structures is presented as being unproblematic within the wider educational context. There is no mention of how the school of nursing fits within the organisational framework of the university.

Rittman and Osburn (1995) report on the difficulties faced by a preceptor when managing an unsafe student in the clinical setting. Using a case study approach they analyse a journal written by an experienced preceptor over a period of six weeks, concerning an unsafe, final-year, nursing student. They identify two major themes of 'knowing the student' and 'creating possibilities for success'. Knowing the student involves watchful listening and assessing dangerousness. They also identify and describe student behaviour that they term 'hallmarks of dangerousness'. These behaviours include unreliability, inability to see or report important patient conditions, inability to undertake basic nursing duties, lying about actions taken, and documentation. It was shown that the preceptor was concerned for patient safety, and as the student was practising under the auspices of the preceptor's licence, she was liable for the student's errors. However, the journal also revealed that the preceptor endeavoured to find successful strategies to meet the student's learning needs. As Rittman and Osburn state, "Creating possibilities for success are the caring practices of precepting unsafe students" (1995, p.220). In this study the preceptor recommended additional clinical experience for the student, but felt frustrated when the school of nursing passed the student with 'marginally acceptable' practice as she felt she had participated in a potentially unsafe nurse entering the profession. Goldenberg and Waddell (1990) found nurse educators reported high levels of stress in retaining failing students as well as failing clinically unsatisfactory students.

In Scotland, Watson and Harris (as cited in Duffy, 2004a) investigated support for students in clinical placements. They found that some student nurses were being

allowed to pass clinical assessments without having demonstrated sufficient competence. It was revealed in this study that not all clinical staff considered it was their responsibility to fail under-performing students on clinical placements. However, unlike in New Zealand, in the United Kingdom the contractual arrangement between the health care trusts and the educational organisations specifies that it is the clinical supervisor's responsibility to pass and fail students on the clinical component of a nursing programme. In theory the educators should be involved in the process of failing a student, but in practice this rarely happens (Duffy, 2004a).

Clearly not all failing students are unsafe, although all unsafe students should be failing. Smith et al. (2001) provide a vivid description of unsafe clinical behaviours recorded by a nursing lecturer in her journal. These behaviours include a lack of knowledge and understanding of the patient's medicine, unreliability in attending educational sessions and in performing clinical duties, lying and pleading ignorance in the face of evidence to the contrary. However, as might be expected given the topic and the difficulties inherent in undertaking research, there is a virtual absence of literature on students' reports of their experiences of failure. In *Malster vs Manukau Polytechnic* the student was described by the nurse educators as having failed to follow guidelines and instructions, displayed unsafe clinical judgment giving rise to actions which could endanger patients, failing to observe basic concepts of nursing care leading to patient anxiety, being unable to follow simple instructions without supervision, and failing to learn from experience.

Three articles found in the literature present a different focus and a more personal and caring approach on the management of failing and unsafe students in contrast to the legal, judicial and rights approaches discussed so far. Writing in Australia, Duke (1996), uses the concepts of role theory, oppressed group behaviour and the ethics of care to examine difficulties experienced by clinical teachers. She found that though clinical teachers were skilled at identifying problems, they were reluctant to make difficult decisions that would negatively impact on a student's career. She reports that clinical teaching involves an intensive student-teacher relationship, and that there is a moral dilemma when the teacher is forced to make a choice between protecting either the student's, or the patient's, rights. According to Duke, this moral dilemma arises from the teachers' ethic of care, a finding relevant to the present study.

Duke (1996) describes how, when clinical teacher evaluations seem to be in the affective domain, the teachers might over-compensate for what they perceive to be their own personal, subjective opinions. For example, if a student is expected to demonstrate caring behaviours or ethical decision-making, and then does not, the teachers might give the student the benefit of the doubt. Even though gut feeling and intuition have been accepted and legitimated in nursing research as a feature of the expert nurse's clinical practice (Benner, 1984), the nurse educators in Duke's study did not consider it was legitimate for them to act upon these feelings when assessing student performance. Instead, they spent time attempting to objectify their decisions and discount their intuition. If they could not do this, they allowed the student to pass the assessment. The nurse educators then spent time wondering if they had done 'the right thing' (Duke, 1996). Mahara (1998), in Canada, also found that teachers considered their close student-teacher relationship led to subjective and biased evaluations. As found by Duke, these teachers then tried to correct this bias towards the end of the clinical rotation by synthesizing all the data collected in a manner they considered to fulfil the rigour of objectivity. They could then arrive at what they considered a final, professional judgment.

Diekelmann and MacGregor (2003) consider that students who fail are often perceived by nurse educators as a challenge to maintaining high professional standards. They note, correctly, that there is little research to guide nurse educators with failing students in highly complex situations. They also note that no evaluation tool exists that resolves the objective-subjective debate or "accounts for the many ways to interpret and understand human behaviour, particularly in clinical situations" (Diekelmann & McGregor, 2003, p.433). Dolan reports that it is not necessarily assessment tools that created problems in clinical evaluations, but "process issues" and "implementing systems" (2003, p.140). As noted at the beginning of this chapter, Mahara (1998) describes how nursing embraced positivism and the scientific method as part of the discipline's struggle for recognition as a profession and as an academic discipline. Consequently, a positivist-rationalist perspective that promotes impartiality and quantitative, measurable and uniform procedures has framed clinical evaluation. The emphasis has been on evaluation systems that sought to ensure fairness, reliability and validity via objective measures such as performance checklists and rating scales. It is

clear from Mahara's account that this legacy informs clinical teachers' perception of what counts, and what does not, and what can be held up to scrutiny. However, clinical evaluation involves observation and interpretation of performance, which are largely subjective and, as Mahara notes, take place in a context that is outside the control of assessor and student. As will be seen in the case studies in the present research there are tensions between what is perceived to be objective and subjective perspectives. However, as Johnstone (1994a) remarks, objectivity is no more 'objective' than the subjectivity with which it has been chosen.

Duffy (2004a) reports the particular problem of the failure to fail has not been the exclusive focus of any investigation in the United Kingdom literature. In the studies that have mentioned this phenomenon various reasons have been given for it, including deficient documentation and assessment process, and insufficient time in the clinical environment for both student and mentor. Duffy notes, however, that some mentors do in fact fail students. Watson and Harris (cited in Duffy, 2004a) found in their study that those who did fail students all regretted having to take such action. In addition, while the clinical mentors recognised their professional responsibility to prevent students who were unsafe from becoming practitioners, they also found it difficult to take action that they perceived would have serious consequences for the student. Duffy notes, "It would appear that even mentors who have come to the decision to fail a student face a number of personal and professional dilemmas" (2004a, p.4).

In the United Kingdom, Lankshear (1990) reports that the failure to fail created frustration amongst lecturers within schools of nursing. Duffy (2004a) comments that anecdotal evidence would support this finding today in her own university in Scotland. However, while the clinical situation in New Zealand may cause frustrations, as will be demonstrated in my own study, the dilemmas rest more with the nursing lecturers themselves. Nurse educators have the responsibility and authority for the clinical assessment of students, although this is often undertaken in partnership with clinical mentors. One of Duffy's recommendations for future research in her study into failing students is, "That further exploration of lecturers' views of the tensions that exist between maintaining professional values and working in higher education be undertaken" (2004a, p.77). I believe that my research helps to shed light on this issue in the New Zealand context.

The clinical teachers Duke (1996) interviewed were sessional and they did not perceive themselves to be expert educators. They experienced role conflict when managing the nurse, teacher and carer roles. They lacked confidence, had low self-esteem and were reluctant to make decisions. Duke (1996) interprets this finding as an example of oppressed group behaviour, especially given the participants' early socialisation via the apprenticeship style of nurse training in male-dominated, patriarchal and paternalistic hospital environments. Similarly, Mahara (1998) notes that teachers fulfil multiple, and seemingly incompatible, roles of mentor, educator and evaluator. However, she argues that much of their discomfort comes from the tensions between the perceived objective and subjective elements in evaluating performance.

Mahara (1998) observes that concern over professional judgments only seems to arise with failing or borderline students and seems to be associated more with teacher's negative feelings related to a student's poor performance. Duke (1996) notes that teachers reported anger towards students when they had compromised patient safety but, at the same time, they would only provide mild or moderate responses and feedback to the student. Hrobsky and Kersbergen (2002) found teachers reported feelings of fear, anxiety and self-doubt when failing a student and were more concerned that their observations would lead to the student failing than any fear for patient safety. They report that teachers felt demoralised and failures themselves when students were unsuccessful, also a finding in the United Kingdom (Duffy & Scott, 1998). While students were able to access support mechanisms to help resolve their feelings, there was no provision for teachers to do the same. Goldenberg and Wadell (1990) report that retaining failing students, and failing clinically unsatisfactory students, were major stressors for lecturers in their Canadian study. These findings of confusion and the feelings experienced by teachers resonate with the experiences reported by participants in the current study.

In her research on clinical evaluation, Duke (1996) discusses moral caring. She reports how the clinical teachers showed concern for the principles of non-maleficence and beneficence, that is, of not doing harm and, above all, doing good. There is an echo here of Smythe's earlier discussion on safety and the difficulties faced by midwives who received contradictory messages, that is, that they *must act* without permission and

that they *must do nothing* without permission (1998, p.2). Of particular interest to my thesis is Duke's use of Gilligan's (1982) framework of moral development to help understand the teachers' difficulty in finding no absolute right or wrong. She argues the clinical teachers had established a caring relationship with the students. Faced with the incongruence of encouraging students and the possibility of not passing them, they had difficulty failing them. According to Duke, using Gilligan's ideas of moral voices, the teachers seemed to derive their notion of what was right and fair from their feminine ethic of care.

All nurse educators are registered nurses and, as such, have some concept of care and caring. In addition, nurse educators have usually developed some form of philosophy regarding their role as an educator, or education manager, that may or may not incorporate aspects of their philosophy of nursing. The above discussion provides the background of nurse educators, as registered nurses, and sets the scene for their role as educators with responsibilities to students, the educational institution, and the nursing profession, in the context of tertiary education.

The Tertiary Education Sector

The discussion regarding managing failing students provides some background to nurse education in the clinical area as well as the tertiary education sector. In an earlier study I explored management issues in higher education institutions in the United Kingdom (Stokes, 1999) drawing particularly on the work of Pollitt (1993), and the labour process theorists (Dearlove, 1997; Willmott, 1995; Wilson, 1991). In this section of the literature review, I focus on the context in which nurse education takes place. This thesis concerns how unsafe students are managed within the tertiary education sector and where accountability for public safety rests in nurse education. Therefore, a brief outline of some of the main arguments regarding neoliberalism, as the underpinning ideology of the New Zealand education reforms, is presented here.

Olsen and Peters describe neoliberalism as "a politically imposed discourse, which ... constitutes the hegemonic discourse of western nation states" (2005, p.314). In New Zealand, Fitzsimons (1995) regards neoliberalism as an attack on the liberal, social and democratic welfare state. He provides an early discussion of the power of the state in

the educational reforms and public sector re-structuring in New Zealand. Using Foucault's notion of governmentality, Fitzsimons critiques neoliberalism and the management of tertiary education institutions within this context. He notes that in New Zealand the application of 'new public management' is regarded internationally as "vastly more coherent and intellectually sophisticated" than in Australia or the United Kingdom (Fitzsimons, 1995, p.176). Fitzsimons argues that the government reform practices are primarily about relations of power. He states that "the state itself is constructed by experts and discourses that are the subject of the reforms to tertiary education" (1995, p.183). Fitzsimons concludes that the adaptive practices of management to these forms of governance are not yet known and form an agenda for future research. Since this article was published various critiques have been written on neoliberalism and its impact on tertiary education in New Zealand (Codd, 1999; Fitzsimons, Peters, & Roberts, 1999; Gould, 1999; Peters & Roberts, 1999; Roberts, 2005).

Boston et al. provide a detailed account of the so-called 'New Zealand model' of public management that developed from the government reforms commencing in the mid 1980s commenting, like Fitzsimons, that it has been "widely acclaimed and celebrated" internationally (1996, p.2). They describe the key features of the New Zealand model and emphasise that one reason it is unique is because it has "conceptual rigour and intellectual coherence" (p.2). They note the reforms are part of a "carefully crafted, integrated and mutually reinforcing reform agenda" and that "managerialist doctrines have been combined and applied in relatively novel and imaginative ways" (p.3). The neoliberal ideas and theories underpinning the reforms include 'public choice theory', 'agency theory' and 'transaction-cost economics'. These build upon a view of individuals as self-interested, rational, autonomous, utility maximisers (Olssen & Peters, 2005; Peters & Roberts, 1999). In addition, there is 'managerialism' which, according to Fitzsimons, "rests on the impoverished notion that societies are nothing more than the sum of the decisions and transactions that are made by the managements of organisations" (1995, p.176). 'New public management' (NPM) is the particular form of managerialism emerging from the ideology of neoliberalism. Boston et al. argue that the area of policy development and the giving of policy advice are distinctive to the public sector and that NPM is not simply a branch of managerialism (1996, p.36). However, they go on to state that those responsible for guiding the implementation of

the New Zealand model frequently held the private sector up as the benchmark for public sector practice. Codd argues that NPM is a major contributor, along with public choice theory, in shaping what he terms as the 'policies of distrust' produced by the separation of policy formation and policy advice from policy implementation (1999, p.47).

Boston et al.(1996) also offer a critique of the major bodies of economic and administrative theory and their influence in New Zealand's public sector reforms. They highlight particular criticisms in their analysis, including the highly questionable assumptions regarding individuals' self-interested motivation and behaviour, arguing that human beings are not merely economic beings (1996, p.30). They consider that replacing relational modes of contracting with explicit, written contracts can reduce levels of trust and commitment. High trust environments can shift to low trust environments and engender a culture of distrust. These points are examined by Codd (1999) who explores the ethical implications of economic rationalism for professionals. Codd (1999) notes that within public choice theory there is no place for concepts such as 'public service', 'public duty' or 'social justice', a point also made by Boston et al. (1996). Codd makes the point that values, such as the sense of obligation and trust that are involved in serving others, cannot be written into the terms of a contract. Codd argues that trust, when conceived of as "a relational condition existing between people in a given social context," is inseparable from a way of life (1999, p.49). According to Codd there has been a decline in trust within educational institutions in New Zealand as a result of the education reforms underpinned by neoliberal theories and ideas.

Brien (1998) explores professional ethics, arguing that the best way to ensure ethical activity is via the cultivation of a culture of trust and not via organised monitoring or measurement of performance. Curzon-Hobson (2002) focuses on the relationship of trust between students and teachers. He argues that institutional accountability systems marginalise the place of trust and so create restrictions regarding the development of a relationship of care and mutual respect between student and teacher. It is interesting to note that the question of trust was the topic of the BBC Reith Lectures in 2002 presented by Lady Onora O'Neill. In these lectures Lady O'Neill addressed the seeming crisis of trust in public life and public institutions and the proposed remedies, such as "the revolution in accountability and greater transparency" (2002, Lecture 1,

p.1.). She argued that new concepts of accountability burden and paralyse those who have to comply with them and that these methods for achieving accountability damage, rather than repair, trust.

One of the objectives of the new model of public management in New Zealand was to improve accountability of public sector institutions, as well as improving efficiency and effectiveness and reducing expenditure. One way of achieving these objectives was via the removal of dual or multiple accountability relationships within the public sector (Boston et al., 1996). Another mechanism was to have decision-making powers located as close as possible to the place of implementation. Peters and Roberts (1999) make the point that the parameters regarding decision-making and the day-to-day management of educational organisations have not been defined by teachers and tertiary education administrators, but it is they who are held accountable for these activities (p. 99).

Codd (1999) argues that external accountability does not depend upon moral agency, as is the case with internal accountability. In internal accountability, moral dilemmas are resolved via discussions with peers and a process of reflection or deliberation. According to Codd, “the educational practitioner cannot avoid the exercise of professional discretion, where this may even require refusal to conform with managerial expectations or directives” (1999, p.52). The current research demonstrates how this situation is made more problematic and complex when the educational practitioner is also a professional nurse. Boston et al. raise the question of the need to exercise professional judgment in many public services and the desirability of professionals to exercise discretion (1996, p.9). In many services, such as education and health care, it is simply not possible to formulate rules to control all activities and practice. The issue is then how those who exercise discretion and make decisions will be held to account. This is a central theme of this study.

The policies developed from the New Zealand model and the health and education reforms emphasise the development of strategic planning and performance management systems, normally assumed under the banner of ‘quality assurance’, and the use of incentives to enhance individual and institutional performance. The aim of these policies is to improve the efficiency and effectiveness of public institutions. Barnett and Standish (2003) note that Lyotard’s term ‘performativity’, that is “the optimisation

of the global relationship between input and output” (Lyotard, 1984, p.11), has become common parlance in critiques of education policy and management. As several commentators in both the United Kingdom and New Zealand have observed, the logic of performativity is a dominant theme in the neoliberal reform process (Ball, 2003; Barnett & Standish, 2003; Bloland, 1995; Peters, 1995; Peters & Roberts, 1999). Barnett and Standish consider that performativity is particularly insidious as it has the ability to tolerate and incorporate criticism and so is impervious to conventional opposition (2003, p.216).

Ball (2003) defines performativity as “a technology, a culture and a mode of regulation that employs judgments, comparisons and displays as means of incentive, control, attrition and change – based on rewards and sanctions (both material and symbolic)” (2003, p.216). He argues that the ‘terrors of performativity’ challenge, or displace, values held by teachers and their integrity as professionals. Ball makes the point that the grounds of these challenges are highly personal and frequently internalised, setting the care of self against duty to others. There are echoes here of the earlier discussion in this chapter regarding forced choices and conflicts between moral integrity and professional survival.

Performativity threatens existing subjectivities and proposes new subjectivities, producing new kinds of teacher subjects. As individuals, striving for excellence and ‘adding value’ to themselves within the reform agenda, teachers “live an existence of calculation” (Ball, 2003, p.217). The public sector reforms in New Zealand and elsewhere resulted in a new language of discourse with terms such as ‘outputs’, ‘outcomes’, ‘stakeholders’, ‘strategic planning’ and ‘purchase agreements’ becoming commonplace (Ball, 1999; Barnett & Standish, 2003; Boston et al., 1996; Peters & Roberts, 1999). Ball (2003) argues that this new language produces new subjectivities and results in people talking about themselves and their relationships with each other in new ways. He adds that new ethical systems are introduced based upon “institutional self-interest, pragmatics and performative worth” and that,

The ethics of competition and performance are very different from the older ethics of professional judgment and co-operation. A new basis for ethical decision-making and moral judgment is erected by the ‘incentives’ of performance. (Ball, 2003, p.218)

Peters and Roberts (1999) point out that administrative work and the need to demonstrate quality assurance has expanded with neoliberal reforms in New Zealand. In addition, there has been intensive curriculum development activity with a proliferation of degrees, certificates and diplomas being offered at public and private tertiary education organisations. Ball (2003) makes reference to Lyotard's 'law of contradiction' whereby the intensification of first order activities, such as direct engagement with students, research and curriculum development, are pitched against the second order activities of performativity, such as the work of performance monitoring and management. The need for educators to succeed in both these activities in order for the organisation to compete and survive results in what Sachs refers to as "institutional schizophrenia" (1997, cited in Ball, 2003, p.221).

Ball discusses how beliefs are no longer considered important – they are part of an older, increasingly displaced discourse. It is outputs that now count. Performativity has no need of caring relations, teachers are no longer required to have a rationale for practice, and the result is "inauthentic practice and relationships" (Ball, 2003, p.222). In the world of performativity, while performance has no need of caring in social relations, educators are expected to 'care' about performance. Ball refers to Lyotard's notion of the 'post-modern condition', specifically the commodification of knowledge and the de-socialising of relationships between students and educators involved in the "exteriorisation of knowledge" (Lyotard, 1984). Ball concludes that this process of exteriorisation is,

Part of a larger process of 'ethical retooling' in the public sector which is replacing client 'need' and professional judgment with commercial decision-making. The space for operation of autonomous ethical codes based on shared moral language is colonised or closed down. The policy technologies of market, management and performativity leave no space of (sic) an autonomous or collective self. (2003, p.226)

This situation has profound implications not only regarding what people, as educators, do, but it also changes who they are. Boston et al. (1996) are not impervious to these issues. They state that the public sector reforms in New Zealand have not resolved conflicts regarding values such as the common good, distributive and procedural justice, liberty, openness, and privacy, among others. In addition, they posit that "the art and

craft of public management is less about realising the maximum number of values than determining which values should be given precedence and which should be sacrificed” (Boston et al., 1996, p.7). They conclude their discussion on ethos and ethics stating that, while there has not been in New Zealand the scandals and the so-called ‘sleaze’ associated with United Kingdom political administration, there is “a need to ‘institutionalise’ ethical behaviour or, as some might say to ‘reinvent’ it, in the aftermath of the managerialist deconstruction” (1996, p.332).

Nurse Education in the Tertiary Sector

Nurse education is now well established in the tertiary education sector in New Zealand having moved into it in 1975. However, funding for nurse education only transferred from Vote Health to Vote Education in an ‘unbundling exercise’ in the mid 1980s. Many health care providers were unhappy with the resulting loss of income and, at the time of my research, grievances were still being voiced in true Dickensian style mostly involving the payment of clinical placements for nursing students (Nursing Council of New Zealand, 2002a). Until recently no specific educational audit of the clinical learning environments for nursing students in New Zealand existed, as it does in the United Kingdom, and so payment was largely a matter of gaining access, which may or may not result in a quality experience for the students. However, the new Nursing Council standards for audit of undergraduate nursing programmes now state that there must be a clear process of evaluation of clinical placement quality. Ironically, given the emphasis on contracting in the public sector reforms, there are no specifications attached to government contracts with District Health Boards for the provision of teaching and learning opportunities for nursing students. Instead, these are negotiated at the local level between individual heads of nursing and directors of nursing services and rely on good relationships and common purpose.

There is political and industrial pressure upon the tertiary education sector to produce a qualified and sizable workforce for the national health care system in the form of registered nurses. Annual contracting rounds, between education organisations and health care providers, for clinical placements and supervision of students vary tremendously across New Zealand. There are logistical constraints regarding the

number of student placements and the different types of clinical experience available in the health care sector and this is not helped by, in some areas, intense competition between schools of nursing. A similar position to this is reported by the Council of Deans of Nursing and Midwifery in Australia (Productivity Commission, 2005). In addition, most schools of nursing in New Zealand are attempting to heed the call of their institutional missions, visions and strategic plans to increase student numbers while at the same time asserting to their competitors, somewhat disingenuously, this expansion will have no adverse impact on them.

In the United Kingdom nurse education moved into the tertiary education sector in the 1990s, but funding remained with the Department of Health. This situation led to much debate regarding ownership of the curriculum and control of the education process (Francis & Humphreys, 1999; Gindle & Dallat, 2000; James, 1998). Interestingly, while Francis and Humphreys (1999) provide an extremely informative history of the rise of economic rationalisation and marketisation on the provision of health care in the United Kingdom, and compare this with developments in Australia, there is no recognition that these same conditions pertain to education providers. Instead, there is an assumption that nurse education is safe in the higher education context, in the sense of being protected from any deleterious effects of economic rationalism or managerialism within the health care sector.⁴ Interestingly, the current health workforce study being undertaken by the Productivity Commission for the Australian government released a position paper that proposes transferring “funding available for university-based education and training of health workers from the Department of Education, Science and Training to the Department of Health and Ageing” (Productivity Commission, 2005, p.73). The rationale for this proposal is based on the need for more responsive education and training arrangements, among other factors.

As noted, in New Zealand the unbundling exercise ensured funding for the clinical component of nurse education stayed with the education providers. In addition, the new diploma level and degree nursing programmes attracted tertiary education funding. Given the ongoing demand for a large, qualified workforce, many smaller tertiary

⁴ In July 2005 I attended an event celebrating 30 years of nurse education in the tertiary education sector in New Zealand. Interestingly, a professor of nursing warned that nurse education was not ‘safe’ in the tertiary education sector when referring to current economic and political pressures such as the PBRF initiative.

education organisations have regarded nursing as a ‘cash cow’ with a much-needed dependable income stream. Interestingly, this particular advantage to the tertiary education sector is not identified by Churchman and Woodhouse (1999) who instead concentrate on providing a list of the benefits to the health care professionals of being in this sector, thus reflecting the rhetoric of educational policy makers, most of whom are not health care professionals. In the meantime in the United Kingdom, the introduction of the Research Assessment Exercise (RAE) has meant that the financial rewards of having nursing programmes in universities has been a somewhat poisoned chalice as the numbers of nurse academics who are research-active, or productive, are small and this has had a deficit effect on research funding. The same is now happening in New Zealand with the introduction of Performance-Based Research Funding (PBRF).⁵ The larger the school of nursing, the more potentially embarrassing, or successful, is its place in the research league tables.

Tensions arise from the professional requirements of a nursing programme, in addition to the educational requirements. The survey of professional regulatory bodies and professional schools by Churchman and Woodhouse (1999) found that professional educators often experience conflict regarding the competing demands of their tertiary education organisations and statutory, or professional, bodies. In particular, they found tension was reported with respect to ensuring quality, competence and, in the case of nursing, good character. As they rightly note, professional and statutory bodies have the role of ensuring public safety, whereas education organisations have a statutory responsibility to deliver education to those who will benefit from it. This tension forms the basis for many of the moral dilemmas found in this study.

The need to balance educational philosophy and the development of an academic discipline and profession with the pragmatics of providing an appropriately prepared workforce are well played out in nurse education (Carlisle, Kirk, & Luker, 1996; Corbett, 1998; Hakesley-Brown, 2002; James, 2000; Kitson, 2001; Miers, 2002; Smith, 2000). This conundrum is also found in New Zealand (Horton & Fitzsimons, 1996). It is reported in the literature in both countries that the relationship between tertiary

⁵ The Tertiary Education Commission reported, for the PBRF round in 2003, that in the subject area of nursing (including midwifery), no evidence portfolios were assigned an “A” quality category, 5.0% were assigned a “B,” 30.0% a “C,” and 65.0% an “R” (Tertiary Education Commission, 2004)

education and professional education is uneasy due to different goals (Churchman & Woodhouse, 1999; Watson, 1992). Churchman and Woodhouse argue that professional education emphasises instrumental learning, while tertiary education focuses on the intrinsic value of learning. This claim needs to be questioned in the new marketised and commodified world of tertiary education and various measures of performativity such as the PBRF. The different perspectives on education, its use value and its exchange value, and the confusion that nursing as a discipline creates regarding this, are explored in this thesis using Lyotard's notion of the postmodern condition and performativity.

It will be shown in the current study how, within the tertiary education context in which nurse education takes place, specific discourses are produced that are frequently at odds with or dominate the discourses of nursing and nurse educators. This argument is similar to the conclusions that Horton and Fitzsimons (1996) reach in their article on the cultural safety debate. They note that inherent in the discourse of cultural safety is the notion of social justice. The cultural safety education programme is primarily designed to change individual attitudes and behaviours. However, unless the dominant discourse is challenged and structural changes achieved, the status quo is likely to remain and the aims of cultural safety education not achieved. As Horton and Fitzsimons note, this conflict is part of a wider contest over what shall count as knowledge that, in turn, concerns the government of education.

Accountability for Public Safety

The management of the education process and issues of governance, including accountability, are well documented in the tertiary education literature, but public safety per se is rarely addressed. Evans (1999) has an entire chapter on 'public interest'. In this discussion she recalls the traditional concept of education as designed to equip citizens for public life. However, according to Evans, the public interest regarding university activities has shifted from their 'products' to debates regarding accountability for public funding, but not public safety. Here, accountability can be viewed as synonymous with audit and, therefore, more to do with the political and economic environment in which education is delivered. As noted in the earlier discussion on neoliberalism, this approach to accountability is elaborated in the debates regarding

political ideologies and the development of government policies, including the so-called New Zealand model (Beck, 1992; Boston et al., 1996; Power, 1997).

One area that has received considerable attention in recent years in New Zealand, and internationally, is 'patient safety' in connection with adverse events, including the creation a Special Health Authority in the United Kingdom in 2001 called the National Patient Safety Agency, (Davis et al., 2001; Kohn, Corrigan, & Donaldson, 1999; Page, 2004). The focus of the latter agency is "to co-ordinate the efforts of the country to report and, more importantly, to learn from mistakes and problems that affect patient safety" (National Patient Safety Agency, p.1). The Institute of Medicine in the United States of America produced a report regarding medical error (Kohn et al., 1999) followed by a report concentrating on transforming the work environment of nurses (Page, 2004). However, neither of these reports situates the delivery of health care in general, and nursing in particular, within the political and economic context of health care policy or systems.

In the United Kingdom, Wakefield et al. (2005) argue that students can learn much from the practice of examining mistakes, providing the value of this teaching opportunity is recognised in healthcare educational curricula. As such, examining errors could become part of a wider educational resource. Wakefield and her colleagues pick up the theme of patient safety, but they note that neither nursing nor medical curricula address this issue in any depth. In this study, learning from mistakes within an educational context is returned to in the later stages of the thesis regarding the management of unsafe students.

The emphasis in the National Patient Safety Agency in the United Kingdom is on promoting an open and fair culture in which people are encouraged to report incidents without undue fear of reprimand. The need to avoid a 'name, blame and shame' culture is also highlighted in the work of Wakefield et al. (2005) and Manthorpe and Stanley (1999). In their article on nursing and social worker students with mental health problems, Manthorpe and Stanley (1999) highlight the dilemmas that can arise in professional education between responding to the needs of individual students and broader responsibilities to the public and professions. They specifically emphasise the culture of concern and loss of public confidence that resulted from high profile

enquiries in the United Kingdom such as the cases of nurses Beverly Allitt (Clothier, 1994) and Amanda Jenkinson (Bullock, 1997). They report that one focus group in their study considered the Clothier and the Bullock Reports had resulted in a more discriminatory approach by nurse educators (Manthorpe & Stanley, 1999, p.363). Since these incidents there has also been the case of Harold Shipman, a general practitioner imprisoned for multiple murders in the United Kingdom (Shipman Inquiry Reports, 2002-2003).

In New Zealand, healthcare scandals have involved both individuals and systems (see the New Zealand Cervical Cancer Audit (Sadler, 2004), the Gisborne inquiry (Duffy et al., 2001) and the Cartwright Report (Cartwright, 1988)). Nurses were criticised by Judge Cartwright for being “less than brave” in the inquiry into treatment at National Women’s Hospital, but there was optimism regarding their future role, provided they learnt from the mistakes that had been made (Bickley, 1993). However, Bickley argues that, instead of addressing the “yawning gap in accountability systems at professional, management, area health board and universities level” (1993, p.134), the government created a health service via health care reforms which is under-funded and under-valued. Bickley concludes that “what New Zealand nurses have to contend with in 1993 is a dangerous combination of hegemonic power relations within health care institutions and a major attack on democratic society at large” (1993, p.135).

Other concerns have a focus on risk assessment and the internal educational environment, students and staff (Evans, 1999; Hart, 1998; Palfreyman & Warner, 1998). Here, health and safety issues and compliance with legislation are uppermost. Hart (1998) relates how the health and safety of the university community come before the rights of the individual student. She reflects on this almost heretical notion of collective rights taking precedence over individual rights in the context of the prevailing individualistic culture. This argument is relevant to the issue of moral dilemmas experienced by nursing lecturers described earlier.

The implications of ‘user pays’ and the introduction of student fees in the provision of tertiary education have also been addressed in the literature. It is argued that these factors have contributed to a more litigious environment as students attempt to maximise their investment in themselves (Evans, 1999; Palfreyman & Warner, 1998;

Peters & Roberts, 1999). It is certainly now common practice in some institutions for students to present at committees and panels accompanied by their lawyers. Mechanisms to avoid this, such as mediation, are being introduced (Warters, 2000).

Many Acts of Parliament are designed to ensure the rights of students are protected in New Zealand (for example, the Consumer Guarantees Act 1993, the Fair Trading Act 1986, the Human Rights Act 1989, the Privacy Act 1993, the Health and Disability Commissioner Act 1994 and, of course, the Education Act 1989). However, I argue here that the education management processes developed within this statutory framework frequently ignore the needs of academic staff. Instead of feeling supported by the administrative processes academic nursing staff report, anecdotally, that they feel compromised, devalued and undermined by them when dealing with students whom they perceive pose an unacceptable risk to public safety. They describe situations whereby they experience the weight of responsibility and accountability as professionals in a process over which they perceive they have little, or no, control. It appears that the existence of statutory rules and regulations, institutional policies and procedures does not address the ethical issues faced by nursing lecturers. The present study aims to explore these issues in detail by examining how unsafe students are managed within three separate schools of nursing.

Summary

This literature review has taken into consideration the fact that nurse educators and nursing students inhabit two different worlds – that of nursing and health care delivery and that of undergraduate nurse education in the tertiary education sector. These different contexts impact on the way in which students are taught, assessed and managed. In addition, the health care reforms in New Zealand have run parallel with those taking place in education, with government policies informed by a neoliberal political philosophy.

In this literature review I have highlighted the themes of how nursing defines itself, how nurses come to perceive themselves as moral agents or not, and the notions of care and an ethic of care that inform their clinical practice. The ways in which registered nurses are challenged by moral dilemmas in healthcare practice have been highlighted, and the

strategies they use to manage these situations have been discussed. In this study these issues are specifically related to failing students, unsafe students and the requirement to practise within a code of conduct, and a philosophy of nursing within an education system that is extremely anxious to uphold the rights of the students. However, there is a gap in the published research regarding how nurse educators manage these situations. This thesis addresses that gap. In particular, this study aims to explore the moral dilemmas faced by nurse educators in the tertiary education sector, the issues they face in their decision-making and in maintaining their moral integrity.

In this chapter, two themes can be identified in the literature regarding the management of failing and unsafe students. The first theme is located in those articles on the management of students that concentrate on legal issues, process and procedure. The literature that emphasizes due process and natural justice presents events with students as unproblematic, provided organisational policies and procedures are followed. The second theme that emerges from the literature focuses on care and relationships between students, educators and clinicians. Those studies that identify feelings, emotions and intuition such as 'gut feeling' and giving the 'benefit of the doubt' often get caught in the objective/subjective debate of nursing education and research, as described. As such, this literature highlights the strength of the positivist paradigm in both nurse education and nursing research. These two themes also resonate with the two moral voices of justice and rights and care and responsibility as identified by Gilligan (1982), and these are explored in detail in Chapter Three.

This chapter has examined the way in which failing and unsafe students have been managed and reported in the literature. Authors highlight the lack of clarity regarding definitions of terms such as 'safe', 'unsafe', 'good character', and 'moral turpitude'. In addition, those reporting research on the management of failing or unsafe students highlight how little study has been undertaken in this area. The current research does not attempt to provide clear definitions of these terms, but instead adds to the literature by demonstrating the various ways in which they have been used in the management of unsafe students in three case studies. In particular, this thesis adopts a postmodern approach and demonstrates how these terms are the products of particular discourses in nursing and education.

The literature presented in this chapter examines how managerialism, and the introduction of economic rationalism, has presented nurses with new challenges within the healthcare services in both the United Kingdom and the United States of America. In addition, Fitzgerald reports ‘profound ethical consequences’ in one New Zealand hospital, regarding shortfalls in care, because the requirement to measure efficiency resulted in contested interpretations of the meaning of care (Fitzgerald, 2004). In this chapter the critique of neoliberalism and the New Zealand public sector reforms has concentrated on the tertiary education sector, as the primary context within which nurse education is located. This literature has highlighted how tertiary education in New Zealand has been affected by the reforms and has used ideas from postmodernism, such as Lyotard’s performativity, to explore the consequences. In particular, the theme of accountability, and the specific language used regarding this within the context of tertiary education, has been examined. The tensions between education and nursing, as different professions, are highlighted when issues of performativity and accountability are explored. These tensions have not been adequately addressed in the literature regarding nurse education within the tertiary education sector. This thesis will demonstrate how the emphasis on one form of accountability has implications for another, and raises questions regarding who cares, and how they care, with respect to public safety in nurse education.

When commencing this research it was not clear how the issue of gender might feature especially given that nursing is predominantly a female occupation in New Zealand and, ipso facto, nurse educators. There are excellent accounts of women’s experience in academia, written for the most part by feminists (Acker, 1993, 1995; Acker & Feuerverger, 1996; Bagilhole, 1993, 2002; Park, 1996). This literature demonstrates the ways in which the activity of caring by women in academia can be undermined, or exploited, especially regarding student support, exposing yet another gendered division of labour to that found in health care (Davies, 1995). However, as the next chapter demonstrates, the focus of this study has been on different voices rather than gendered voices, and gender has not been developed as a key theme in this thesis. Furthermore, I do not take a specific feminist perspective in this study, but I have incorporated insights from feminist theorists in the development of my theoretical framework to which I turn next.

CHAPTER THREE

THEORETICAL FRAMEWORK

This chapter is divided into three sections. The first section looks at Gilligan's different voices, her ethic of care and the feminist critique of this, specifically that of Friedman. The second section takes the work of Hekman which links moral voices to moral selves, arguing that what we know and who we are cannot be neatly separated. The third section selects some of Lyotard's major ideas that are then utilised to examine the three case studies, and the wider tertiary education context.

Different Voices

In the following section I provide an account of Gilligan's two different moral voices and the ethic of care that they give rise to. I have concentrated on providing a brief overview of the feminist critique of traditional moral philosophy and I try to keep to a minimum the substantial feminist literature on Gilligan's research, selecting those aspects most pertinent to my own research.

In *In a Different Voice* (1982) Gilligan explores the different voices that arise from the interaction of experience and thought. She specifically looks at how people defend moral problems and what experiences they construe as moral conflicts in their lives. She looks at how judgments are made, and decisions are reached, regarding hypothetical and real moral dilemmas. Immediately, therefore, it can be seen how Gilligan's work is relevant to the present study and the moral dilemmas faced by nurse educators.

Gilligan identifies from her own research a morality of concern, associated with an activity of care, that develops into a morality of responsibility and relationships and an ethic of care. This morality of care and responsibility contrasts markedly with the concept of a morality of justice and rights, based upon abstract moral reasoning, universal principles and a social contract, as described by Kohlberg, and underpinned by the Enlightenment project and traditional moral philosophy. Gilligan considers that

the two different voices she identifies are characterised by the themes of justice and rights, and care and responsibilities. Initially, Gilligan associates the two voices of justice and care with men and women respectively, but later shifts her focus from this sexual division of morality to a gender-related association (Gilligan, 1987). Friedman (1993) makes a useful distinction between two different positions within Gilligan's research. These positions are i) the 'different voice' hypothesis, and ii) the 'gendered difference' hypothesis. The focus in this study is on the different voice hypothesis with the issue of gender taken up briefly in the discussion on the ethic of care.

Gilligan emphasises that her focus is on the problem of interpretation, not on generalising about males or females. She is anxious to note that her findings are specific to time, place and culture and no claims are made regarding the origins of the differences, or their distribution across populations. Specifically Gilligan states:

My interest lies in the interaction of experience and thought, in different voices and the dialogues to which they give rise, in the way we listen to ourselves and to others, in the stories we tell about our lives. (1982, p.2)

This approach is an important aspect of Gilligan's research as it moves away from the traditional empirical methods of collecting and analysing data used by developmental psychologists at that time. Gilligan provides enough detail of her women's responses for the reader to assess her interpretation. At the same time it is in the dialogue, the way in which the women try to reconcile their moral dilemmas, that the reader is able to recognise the two voices. Code (1992) comments on Gilligan's methodological approach and its importance for allowing different moral voices to be heard. She notes that Gilligan stresses listening responsively to women as they recount their experiences, and she maintains that Gilligan also listens responsibly. Responsiveness assures receptiveness and continuity with the experience, together with caution about interpretation. Responsibility assures that no uniquely right interpretation and no unique truth are claimed, but good and bad, better or worse, interpretations are recognised (Code, 1992, p.166).

Gilligan points out early in her book that at the very moment in the twentieth century when we are trying to eradicate discrimination we are also becoming aware that theories, formerly considered to be gender neutral, are in fact predominantly construed

through men's eyes. She notes that categories of knowledge are human constructions and the notion of scientific objectivity as value-free is thus challenged (Gilligan, 1982, p.6). She charges psychological theorists, from Freud onwards, with trying to fashion women out of masculine cloth, implicitly adopting male life as the norm. Feminists Kittay and Meyers, like Gilligan, describe how traditional philosophical and psychological approaches have made the experience of men the measure of human experience and have claimed universality for these positions (Kittay & Meyers, 1987). The consequence of this has been that, "A problem in theory became cast as a problem in women's development, and the problem in women's development was located in their experience of relationships" (Gilligan, 1982, p.7). Gilligan raises some important epistemological questions here, although she does not expand on them.

Gilligan challenges Kohlberg's six-stage hierarchical model of the development of moral reasoning in which women, but not men, consistently fail to achieve the higher levels. Gilligan demonstrates how women's focus on relationships gives rise to a different voice, not a deficient voice. This different voice of relationships and responsibilities defines an ethic of care. Gilligan considers the relationship between the two views of morality to be complimentary, not oppositional. In a later publication, she maintains it is possible to move between a justice and rights perspective, and a care perspective; however, it is not possible to hold both simultaneously (Gilligan, 1987). In this way Gilligan compares the justice and care perspectives as akin to the ambiguous figures of Gestalt psychology such as the young and old woman, and the drawing that can be seen as a duck or a rabbit. Each organising framework, of justice and care, leads to a different way of imagining the self as a moral agent. Gilligan (1987) argues adopting one perspective, or the other, may facilitate decision-making, but the search for clarity may also imply a compelling human need for resolution or closure. In addition, this need for resolution may blend with the need to rationalise and justify the position taken, and the existence of a right way to think about moral problems. The search for the 'right' answer, reached at by using the 'right' tools of decision-making permeates the present study and will be returned to.

Friedman (1993) argues for an integration of justice and care considerations as do Card (1995) and Baier (1995). Friedman considers that the care/justice dichotomy is rationally implausible, and that the two are, in fact, conceptually compatible. She

argues that justice and care orientations do not define two competing, or alternative, moral frameworks, but simply represent another facet of the variety of moral thinking (Friedman, 1993, p.141). In Friedman's view, the two moral concerns can be intermingled in practice and are not mutually exclusive. Baier asks what it is that comes into view from the care perspective, but that is not seen from the justice perspective (1995, p.49). She discusses Hume's 'cold jealous virtue of justice' arguing that it is found to be too cold; something warmer has been identified – Gilligan's care voice. In addition, the Kantian rules of justice and rights, upon which Kohlberg's model is based, specifies contractual relationships, and respect for rights, but that these are "compatible with very great misery" (Baier, 1995, p.51). Baier argues that the care voice can be used to supplement the justice and rights voice and that the best moral voice is co-operative, harmonizing justice and care. Other feminists disagree with the possibility of integrating an ethic of care with a justice and rights perspective. Noddings, for example, rejects any integrationist argument as she regards the ethic of universal justice as a masculine illusion (cited in Friedman, 1993, p.143).

Gilligan notes that, in her research, women have an overriding concern with relationships and responsibilities that may manifest as a confusion of judgment, a reluctance to judge. Far from being a weakness, as presented by the strong, autonomous individualistic concept of man, this relationship approach is viewed as a strength, and is indicative of care and concern for others. Indeed, women judge themselves in terms of their ability to care, and define themselves within the context of human relationships. Gilligan claims:

In this conception, the moral problem arises from conflicting responsibilities rather than from competing rights and requires for its resolution a mode of thinking that is contextual and narrative rather than formal and abstract. This conception of morality as concerned with the activity of care centers moral development around the understanding of responsibility and relationships, just as the conception of morality as fairness ties moral development to the understanding of rights and rules. (1982, p.19)

Friedman (1993) takes up Gilligan's argument regarding responsibility, relationships and fairness. In re-arranging the original Heinz dilemma, used in Kohlberg and Gilligan's research, Friedman demonstrates ways in which considerations of care and

responsibilities may sometimes override considerations of justice and rights in overall moral reasoning.⁶

Friedman argues that close relationships require partiality, and that this view has gained wide philosophical acclaim with some defenders of impartialist moral theory treating partiality as morally permissible, even obligatory. However, the moral value of partiality depends partly on the moral value of the relationships it helps to sustain. Personal relationships can be nurturing, but they can also be abusive, exploitative and oppressive. Friedman notes, importantly, that:

The quality of a particular relationship is profoundly important in determining the moral worth of any partiality which is necessary for sustaining that relationship ... In the most general terms, relationships are morally wrong to the extent that they harm people, especially one or more of the participants of the relationship. (1993, pp 40-41)

Friedman explains that our notion of responsibilities arise out of the sort of special relationships that we have with each other, in marriage for example. Furthermore, she goes on to make the point that many of the personal relationships that matter to us do not originate in mutual consent, or with anything that can suitably be represented by the metaphor of the social contract (Friedman, 1993, p.103).

In Gilligan's research, women emphasise connection, not separation, and construct moral problems differently, giving rise to a morality of responsibility where the relationship is the primary consideration. This is different from a morality of rights that emphasises separation and consideration of the individual. In introducing the two different voices, Gilligan acknowledges the difficulties presented to those who hold one view or the other:

⁶ The original dilemma as used by Kohlberg is as follows, "In Europe, a woman was near death from cancer. One drug might save her, a form of radium that a druggist in the same town had recently discovered. The druggist was charging \$2000, ten times what the drug cost him to make. The sick woman's husband, Heinz, went to everyone he knew to borrow the money, but he could only get together about half of what it cost. He told the druggist that his wife was dying and asked him to sell it cheaper or let him pay later. But the druggist said, 'No'. The husband got desperate and broke into the man's store to steal the drug for his wife. Should the husband have done that? Why?" (Kohlberg, 1969 reproduced in Friedman 1993, p.104). In order to explore different approaches to moral reasoning Friedman changes the actors in the story to Heidi, the wife, who steals the drug from Hilda, the druggist, in order to save her husband Heinz, from cancer and, subsequently, changes Heidi to 'you', Hilda back to an unnamed druggist and Heinz to a stranger.

Thus it becomes clear why a morality of rights and non-interference may appear frightening to women in its potential justification of indifference and unconcern. At the same time, it becomes clear why, from a male perspective, a morality of responsibility appears inconclusive and diffuse, given its insistent contextual relativism. (1982, p.22)

Gilligan describes how she identified, from her respondents, the central tenets of an ethic of care. These tenets are i) non-violent conflict resolution, ii) a belief in the restorative activity of care, iii) avoiding hurt, and iv) maintaining relationships. Gilligan describes stories written in response to a picture involving trapeze artists performing without a net. In the stories three times as many women as men added nets, thereby making the acrobats safe. The men on the other hand made a point of noting the absence of the net and the danger this presented. Gilligan interprets this as women making the social world safe. However, Friedman makes the point that it could be that the women provide safety nets because they perceive the relationship between the artists as being unsafe, not the act of flying. Women therefore add nets as external safety devices (Friedman, 1993, p.150). Of importance in this study is not only the need to make the situation safe, a problematic issue as already shown by Smythe (1998), but the issue of trust. The issue of trust is not overtly discussed by Friedman or Gilligan, but is inherent in the relationship between trapeze artists, as it is between students and their nurse educators and patients.

Gilligan's research demonstrates that the justice perspective, as portrayed by Kohlberg, fails to recognise the development of moral reasoning, and the strategic decision-making process, of many women. Her respondents describe "a network of connectedness, a web of relationships that is sustained by a process of communication" (1982, p.32). However, there is an absence of appropriate language to explain women's experience, which can then easily be misrepresented and distorted. As Gilligan describes it:

When the interconnections of the web are dissolved by the hierarchical ordering of relationships, when nets are portrayed as dangerous entrapments, impeding flight rather than protecting against a fall, women come to question whether what they have seen exists and whether what they know from their own experience is true. These questions are raised not as abstract philosophical speculations about the nature of reality and truth but as personal doubts that

invade women's sense of themselves, compromising their ability to act on their own perceptions and thus their willingness to take responsibility for what they do. (1982, p.49)

Given that responsibility and accountability are major themes in my research, this interpretation of Gilligan's is extremely significant. A major theme in Gilligan's work is that male colleagues do not hear women's stories as *moral* stories. Much of the feminist literature addresses why this situation arises in what is described as a paternalistic, male-dominated society that subjugates, marginalises and silences women. However, in the present study, the emphasis is on different voices, not gendered differences, or the notion of a gendered division of moral labour (Friedman, 1993; Held, 1987).

Gilligan found that a common theme among female respondents in her abortion study was to not hurt others, while maintaining personal integrity and being true to themselves. This need gave rise to moral dilemmas. Importantly however, when making judgments and reaching decisions, women found it hard to break rules. This led to a reticence about taking a stand on controversial issues, looking for the exception to the rules and seeking consensus. The result was that women's voices contained a sense of vulnerability. Gilligan concludes, however, that the women's reluctance to judge may have had more to do with their discomfort regarding their right to make moral statements, or the price that such judgments seem to entail when they do (1982, p.66).

Gilligan stresses that the justice and care perspectives provide frameworks that lead to different ways of imagining the self as a moral agent. This is illustrated in the decision-making processes described in her study of women and abortion whereby women were able to see the violence inherent in their moral dilemmas concerning abortion. Gilligan notes:

The essence of moral decision is the exercise of choice and the willingness to accept responsibility for that choice. To the extent that women perceive themselves as having no choice, they correspondingly excuse themselves from the responsibility that decision entails. (1982, p.67)

Gilligan concludes that the strategies that women have used in the politics of sexual relations, such as withholding and denial, are similar to their evasion, or withholding, of

judgment in the moral domain and “this bespeaks a self uncertain of its strength, unwilling to deal with choice, and avoiding confrontation” (1982, p.69). Where a woman recognises and accepts that she has a choice, for example to have, or not to have, an abortion:

She contemplates a decision that affects both self and others and engages directly the critical moral issue of hurting. Since the choice is ultimately hers and therefore one for which she is responsible, it raises precisely those questions of judgment that have been most problematic for women. (Gilligan, 1982, p.73)

In her study on abortion, Gilligan found women’s constructions of the dilemma reveal a distinct moral language, different from that found in studies of men. She states:

Women’s construction of the moral problem as a problem of care and responsibility in relationships, rather than one of rights and rules, ties the development of their moral thinking to changes in their understanding of responsibility and relationships, just as the concept of morality as justice ties development to the logic of equality and reciprocity. Thus the logic underlying an ethic of care is a psychological logic of relationships, which contrasts with the formal logic of fairness that informs the justice approach. (Gilligan, 1982, p.73)

Women’s moral language contains words such as ‘should’, ‘ought’, ‘better’, ‘right’, and ‘good’. Gilligan identifies three moral perspectives from her analysis of the way in which this language is used. These perspectives are: caring for the self in order to ensure survival, caring for dependents and responsibility for others, and care for others and self within an understanding of the dynamics of social interaction and relationships. This latter “dissipates the tension between selfishness and responsibility through a new understanding of the interconnection between others and self” (Gilligan, 1982, p.74). Gilligan identifies these three perspectives as underpinning the development of an ethic of care. Gilligan then goes on to explore how this ethic of care can facilitate the inclusion of responsibilities with rights for both men and women.

Gilligan found that women have difficulty in accepting that the interests of the self are legitimate, that they have a right to care for themselves and have their needs met. This concept is perceived as dangerous, and threatening of relationships, but once accepted the relationships are changed from dependence to interdependence. As Gilligan describes it, “A consciousness of the dynamics of human relationships then becomes

central to moral understanding, joining the heart and the eye in an ethic that ties the activity of the thought to the activity of care” (1982, p.149). In *In a Different Voice* (1982) the female voice is relational and caring, and Gilligan proposes that this relational self be added to the voice of the separate self, emanating from the voice of justice and rights.

Gilligan’s discussion of the concepts of self and morality raises thorny issues concerning gender, difference, the relation between fairness and care and complementarity of the two voices. Feminists have explored these issues from a variety of different political and theoretical perspectives (Benhabib, 1987; Card, 1995; Friedman, 1997; Hekman, 1995; Kittay & Meyers, 1987). Of importance here however is the notion of the relational self, and the development of a moral domain, as contrasted with the autonomous, separate self as described by Kohlberg.

Friedman (1993) provides a discussion of the partiality-impartiality debate and develops the concept of the social self, emanating from this debate, within a feminist framework. She notes that feminists have contested the concept of rights for relying on an atomistic and asocial conception of the individual. Friedman quotes non-feminists and feminists, who deny the very possibility of impartial reasoning, and emphasises how this view derives from a certain metaphysical conception of the moral self. The result is that:

No self can reason as if dissociated from the contingencies which constitute her to be the self she is. There is no escape from the specifics of one’s embodiment, historical situation, and relational connection to others. Impartial reasoning is impossible; the self is inherently partial. (Friedman, 1993, p.67)

Friedman quotes Sandel (1982) who claims that the attachments we have of loyalty and allegiance are constitutive of our selves, so they partly define us and give us character. Relationships are intrinsic to identity. Friedman goes on to argue:

If the self is inherently social, then a concern for other persons is fundamental to the self and is not reducible to a mere variety of self-concern. Indeed, the conception of the social self tends somewhat to blur the distinction between self and other. (Friedman, 1993, pp.68-69)

However, even though selves are socially constituted, Friedman argues it is possible, by developing a socially critical perspective, to modify the conception of the social self. As social beings we engage in a variety of relationships within which there is diversity and inconsistency. A complex self is constituted from these varied identity constituents, and can depart from one or another. As Friedman argues, “We can move back and forth among a plurality of partial identities, now interrogating this or that relational norm from the standpoint of other commitments” (1993, p.77). Friedman concludes her discussion with the following comment:

If the survey of social influences on self-identity is correct, then the conception of the self as inherently social allows for the possibility that a self might criticize or resist this or that relationship convention which is, nevertheless, constitutive of her own identity. (Friedman, 1993, p.79)

In this way, the self is not a passive dupe controlled through social regulation, but can actively engage in critical evaluation, reflection, resistance and insubordination. The notion of how selves, or subjectivities, can be constituted by discourses is examined in the next section. Here the important point is that a rights and justice perspective emphasises the autonomous, self-interested, impartial individual, who is able to treat all people equally, regardless of their relationship with them, making decisions using abstract moral reasoning and universal principles. The social self emanates from a perspective of care and relationships, and is constituted by these relationships. Feminists have argued that the asocial conception of the rights approach is, “Inimical to the interconnectedness of close personal relationships and damaging to the intimacy and mutual trust on which those relationships should be based” (Friedman, 1993, p. 67).

Peters and Marshall (1996) argue that Friedman is guilty of substituting the universalistic notion of the ‘individual self’ with that of the ‘social self’. They also consider that Friedman’s communitarian perspective privileges unity over difference in a way that is politically problematic. Other feminist critics of the communitarian approach to the self argue for a politics of difference as this does not ignore alienation and violence within social relations (Phillips, 2002; Tronto, 1993; Young, 1990 cited in Peters & Marshall, 1996).

Benhabib (1987), a feminist critical theorist, critiques universalistic moral theories, including the justice model of Kohlberg. She maintains that these theories present selves that are epistemologically and metaphysically prior to their individuating characteristics and that, in doing so, contemporary moral theory prioritises the generalised other, over the concrete other. In looking at social contract theory, Benhabib explores how justice becomes the centre of moral theory, and the establishment of law ensures that the rights claims of people are respected. However, Benhabib considers that, “The law reduces insecurity, the fear of being engulfed by the other, by defining mine and thine. ...The law contains anxiety by defining rigidly the boundaries between self and other, but the law does not cure anxiety” (Benhabib, 1987, p.162).

Benhabib argues that in the justice and rights model the autonomous self is disembodied and disembedded, fairness is public justice, and conflict is resolved by applying systems of rights and duties. In addition, the justice and rights perspective views individuals as rational beings entitled to the same rights and duties as others. Friedman also argues that justice does not, by itself, define the moral domain and that care is not reducible, or comprehensible, in terms of justice. Fairness, as justice, is not our only moral concern (Friedman, 1993, p.107). However, in assuming the traditional moral standpoint, it is commonalities that constitute moral dignity, not differences between people. In effect individuals are abstracted from their concrete identity, they become the ‘generalised other’, and interactions focus on rights obligation, and entitlement. However, drawing on Gilligan’s research, Benhabib argues, “Women show a greater propensity to take the standpoint of the ‘particular other’, and appear more adept at revealing feelings of empathy and sympathy required by this” (Benhabib, 1987, p.155).

This perspective describes the standpoint of the concrete other, whereby interactions are based on friendship, love and care, and require more than the assertion of rights and duties. In the justice and rights perspective it is the generalised other that predominates, and Benhabib goes on to argue that ignoring the standpoint of the concrete other “leads to epistemic incoherence in universalistic moral theories” (1987, p.165). Benhabib resolves the dilemma by proposing a communicative ethic of need interpretations, and a relational self, in which the language of rights and justice can be challenged. She gives as an example Kohlberg’s hypothetical Heinz dilemma in which the individual actors,

and their moral positions, are abstracted from their history and context, ignoring their motives as irrelevant to the definition of the moral problem being considered. In making her argument Benhabib cites Gilligan's finding that "the women's judgments point toward an identification of the violence inherent in the dilemma itself, which is seen to compromise the justice of any of its possible resolutions" (Gilligan, 1982, p.101).

Gilligan points to another difference in women's moral reasoning: between hypothetical and real moral dilemmas. Women tend to avoid making judgments unless they are faced with the situation themselves. Men, however, using so-called universal principles such as rights and justice, apply these equally. It is within hypothetical and real situations that the moral voice of care and responsibility emphasises what Gilligan describes as 'contextual relativism'. Contextual relativism is defined as including a greater sensitivity to the contextual details of any situation, plus a reluctance to make definitive moral judgments. This phenomenon is first described with Amy, an eleven-year-old, when she answers "it depends" regarding making decisions regarding the Heinz dilemma and whether he should steal drugs for his sick wife to save her life. Amy requests more details regarding the situation before she is able to provide a solution.

In Gilligan's research women consistently ask for more information, when given a hypothetical scenario, before making decisions. They consider it is necessary to look at all the relationships, and the consequences of any action on the relationships, before any decisions are made. Women's judgments are tied to feelings of empathy and compassion. Similarly, when another respondent was asked what she would do in a particular situation she responded:

I think that everybody's existence is so different that I kind of say to myself, "That might be something that I wouldn't do," but I can't say that it is right or wrong for that person. I can only deal with what is appropriate for me to do when I am faced with a particular problem. (Gilligan, 1982, p.102)

Friedman contemplates whether Gilligan has been distracted by the fact that, when we are confronted by real rather than hypothetical moral dilemmas, we typically know the people and "We rely upon this tacit but crucial background information. ...

Hypothetical dilemmas have no social or historical context outside their own specifications” (1993, p.110).

Friedman agrees with Gilligan’s emphasis on contextual detail in moral reasoning, but argues that it is the extent of the contextual detail of the moral dilemmas that is important for moral reasoning, not whether the situation is real or hypothetical. She gives as an illustration the ability to have profound moral insights when responding to fictitious stories such as those presented in literature or films. It could be argued that this is somewhat contradictory, given that Friedman already demonstrates in her adaptations of the Heinz dilemma how moral reasoning may change when the situation is more personal, the ‘you’ dilemma. She identifies a gap between moral reasoning and moral behaviour when she asks the question that, of those who endorse stealing to save the life of a stranger, who would actually act on it. As she notes, it is easier to take the moral high ground and be ‘heroic’ when actions do not have to follow words (1993, p.110). In her argument Friedman seems to have ignored one of the main tenets of Gilligan’s thesis: that the care voice is one of responsibilities and relationships. Friedman continues to omit this fundamental point when she goes on to argue that what matters is, “Having sufficient detail for understanding the story at hand, whether the story is of a real moral dilemma or a hypothetical one” (1993, p.111).

Friedman’s position here is problematic. As discussed, the Heinz dilemma can be useful for showing partiality, a different type of ordering perhaps to that of universal principles, but an ordering nevertheless: one of different relationships leading to different moral decisions. However this dilemma still remains in the realm of the hypothetical. Until the ‘you’ becomes real, and actions have to follow words, it is still too easy to take this new moral high ground. This argument is of particular interest in the case studies here, for example, in situations where nurse educators have to enact decisions made by decision-makers who may not personally know the student, or the nurse educators, involved.

Gilligan found that hypothetical moral dilemmas were useful for the identification of objective principles of justice, but that these “separated the moral problem from the social contingencies of its possible occurrence” (1982, p.100). Women in her study tended to reconstruct hypothetical dilemmas in terms of the real, or they requested

further information regarding the people and details of the context. This shifted their moral judgment away from the hierarchical ordering of principles and allowed them to focus on the violence inherent within the dilemma itself. In seeking greater contextual detail, women demonstrated that moral judgment was frequently about making a forced choice between two evils.

Friedman makes the point that Kohlberg's justice framework was designed to measure only abstract moral reasoning, reasoning detached from any moral practices (1993, p.108). She goes on to argue that abstract moral principles are often not helpful when we look at real everyday situations in all their complexity. Consideration of the contextual detail tends to sway us in one direction and then in another,

Kohlberg's suggestion that contextual detail helps one to figure out which principle to apply simply does not get us very far in understanding how we finally decide what ought to be done in the complex, institutionally structured situations of our everyday lives. And this is true whether the reasoning is about care and relationships or about matters of social justice (Friedman, 1993, p.115).

Friedman goes on to argue that the significance of the more fundamental and larger justice problem in the original Heinz dilemma is neglected in both Kohlberg's and Gilligan's discussions. The real significance is that, of the two alternatives presented, to steal or not to steal the drug, neither one threatens the institutional context within which the problem is situated. It is not just a question of life versus property, according to Friedman; broader issues of social justice are at stake regarding the delivery of healthcare and access to supplies of needed drugs. These larger justice dilemmas require not just contextual detail, but also a complex economic, social and political theoretical perspective (Friedman, 1993, p.114). An important part of the current study is locating the moral dilemmas expressed by nurse educators within the economic, social and political context of the tertiary education system.

The notion that care orientation can be considered equal to a justice orientation is extremely attractive, but inherently dangerous when associated with a gender division. As Friedman notes, the acknowledgment and development of an ethic of care "raises caring, nurturing, and the maintenance of interpersonal relationships to the status of foundational moral importance" (1993, p.147). However, Friedman argues that Gilligan

treats relationships too individualistically, abstracting them from the wider social context of governmental and economic institutions and practice of which they are a part. Care ethics does not deal with the moral relationships of public life, relationships between strangers, or where there is no affective tie. While care ethics has made an important contribution to contemporary moral theory, by making visible and valuing traditionally female experiences, many feminists would argue there is a catch. Making care visible has not addressed the subordination of women, or oppressive social practices. Worse, by promoting an ethic of care as a female ethical perspective more harm than good may be done, as stereotypic gender assumptions may be re-enforced (Friedman, 1993; Held, 1995).

As demonstrated in the Heinz dilemma, Friedman (1993) makes the case for partiality, and Benhabib (1987) provides a well considered argument for the inclusion of the 'concrete other' together with the 'generalised other' in moral reasoning and decision-making. Each of these feminist writers question traditional male moral philosophy and provide alternative, and inclusive, models of morality. However, it could be argued that in trying to resolve the justice and care perspectives, or at least the inequities inherent within them, these theorists have missed the point. Gilligan's two voices, when considered to be both different and separate, cannot be united by Benhabib's model of communicative ethics or Friedman's integrationist and communitarian model.

Gilligan consistently found that the experiences of men and women differ when the relationship between self and other is exposed in dilemmas of conflicting commitments, and in which identity and intimacy converge. Here the different voices speak of different truths – one of attachment and one of separation. Gilligan wishes to address the silence of women in the narrative of adult development by enlarging the model of moral development, via stages, to include both perspectives. Having looked at the contrast between the two perspectives, Gilligan maintains it is possible to see not just that which was considered missing from women's development, but also what is there. In positing two different voices she concludes that:

We arrive at a more complex rendition of human experience which sees the truth of separation and attachment in the lives of women and men and recognises how these truths are carried by different modes of language and thought. (Gilligan, 1982, p.174)

Moral Voices and Moral Selves

Hekman (1995), a feminist political scientist, provides an informative critique of Gilligan, as well as the work of feminists, moral philosophers and social theorists who have challenged, or developed, aspects of Gilligan's work. According to Hekman, Gilligan's research is reflective of the twentieth-century attack on Enlightenment man as the rational, abstract, autonomous constitutor of knowledge who has been replaced by a subject who is embedded and situated, constituted by language, culture, discourse and history (Hekman, 1995, p.2). Hekman considers that moral philosophy is one of the last bastions of modernism because rationality and autonomy, challenged by feminists, provide the necessary basis for it. Hekman's thesis is that we should stop trying to 'get it right' and, instead of attempting to find an alternative moral theory, take a far more radical approach by calling into question the very conception of what the West has defined as moral theory (1995, p.34). Hekman does just this by examining Gilligan's work, and others, arguing that the paradigm shift that has occurred across a range of academic disciplines is now having a profound effect on moral philosophy.

Hekman considers that Gilligan, as an outsider to moral philosophy, has articulated a new paradigm in a true Kuhnian sense. While Gilligan is not concerned with moral philosophy per se, she develops the concept of the relational voice of care and responsibility in her findings that, according to Hekman, undercuts the very foundation of modernist moral theory. Hekman goes on to outline a discursively constituted approach to morality and, as a feminist, anticipates that her radical reconceptualisation will be beneficial for feminism. As such, it is not so much Hekman's agenda for feminism that is of interest here, as it is the way in which she argues and develops her moral theory. I specifically outline some of her arguments regarding truth, relativity and epistemology as well as her development of different moral agencies and subjectivities. These ideas provide the link between moral theory and postmodernism to which I then turn.

As already noted, Gilligan coins the term 'contextual relativism' explaining that women tend to ask for more details regarding the context in which moral dilemmas occur. In their moral reasoning women take particular circumstances into consideration in a manner not found in the justice voice. Hekman argues that Gilligan, and many feminist

scholars, even though they develop a critique of positivist science, have capitulated on the issue of the absolute versus relativist dichotomy fearing the danger of relativism and the concept of 'anything goes'. Hekman looks specifically at moral theory and notes that defenders of modernist moral theory argue that "if we abandon the conception of the disembodied knower who constitutes universal moral principles, we are condemned to moral relativism, to the babble of countless moral voices" (1995, p.31). However, as Hekman points out, the category of relativism is parasitic on its opposite, the possibility of absolute knowledge, but only if the issue is cast in terms of this opposition. This interpretation gives rise to the fear that it is not possible to make judgments, or reach decisions, and clearly this is of real concern, certainly in the moral domain. This issue is clearly of great relevance to this study and the decision-making processes involved in the management of unsafe nursing students.

Hekman argues that many of the 'alternative tradition' philosophers take a stand on the absolute versus relativist dichotomy, but by remaining within the epistemological parameters of modernist theory, they preclude the possibility of defining a real alternative (1995, p.39). She argues that the criteria of judgment within any discursive system are a function of the internally-constituted rules of that system and, as such, there are narratives about the world, not one single meta-narrative. Hekman states:

The discursive account of knowledge I am advocating explicitly challenges the modernist epistemology that ground both contemporary scientific method and traditional moral theory. It does not embrace relativism but moves to an epistemological stance that displaces the absolute/relative dichotomy. It does not define knowledge as *either* absolute *or* relative but, rather, as situated, connected, and discursively constituted. (1995, p.32)

Hekman argues that Gilligan tries to avoid the danger of relativism in her search for different truths, in true modernist tradition. As seen in the previous section, it is clear that Gilligan considers she has identified different truths belonging to different voices and, as such, a unitary truth is replaced with dualistic truth. However, in her search for truth she demonstrates that she is working within a modernist tradition while, as Hekman would have it, undermining the same with her new voice of care and responsibility. The truths that Gilligan identifies are internal to the theoretical perspectives themselves; that is, they are a function of the theoretical perspectives. Hekman argues the new moral voice that Gilligan articulates does not exist in the same

epistemological space as that of Western moral theory. It stands, not as a supplement to that tradition, but in a different, incompatible theoretical space (Hekman, 1995, p.25).

According to Hekman, the search for *the* moral and ethical theory has been “a masculinist preserve, rooted in commitment to the disembodied subject who legislates abstract, universal principles” (1995, p.63). Ethics, defined in this way, is about ‘getting it right’ and many feminists have concentrated on just this, trying to discover the one feminist ethics, or ethic of care, that can counter the masculinist ethics of modernist moral philosophy. The desire to get it right, however, can be viewed as the product of a particular class, race and cultural situation. Hekman comments that pursuing this goal in moral theory will not lead to the necessary reconstruction of moral theory, even from a feminist perspective. Although these arguments do help to ‘jam the machinery’ of modernist moral theory what is needed is an exploration of the truths of morality, not a singular truth (Hekman, 1995).

Code’s (1992) principal concern is theories of knowledge and she questions the fundamental distinction between subjectivity and objectivity, rejecting the idea that ethics and epistemology are separate and distinct areas of inquiry. She considers that subjectivity and agency are even closer to the surface in ethical theories than in theories of knowledge. Like Hekman, Code argues that moral theory cannot be separated from the epistemological theory in which it is grounded and that Gilligan’s work is symptomatic of the move away from the universalism and absolutism of modern epistemology toward conceptions that emphasise particularity and concreteness. Code’s intention is to “remap the epistemic terrain into numerous, fluid conversations” (Code, 1991, cited in Hekman, 1995) and Hekman states that she is attempting to do the same for the moral terrain, “because what we know and who we are cannot be neatly separated” (1995, p.69).

As already discussed, Gilligan’s interest lies in the interaction of experience and thought and the different voices they give rise to. Specifically, she looks at conceptions of self and morality, experiences of conflict and choice, and their role in moral development. Hekman, rather than expanding on Gilligan’s ethic of care as other feminists have done, builds on her thesis that moral voices and moral selves are inseparable, and that this is the central element that connects morality and subjectivity. This argument allows for a

position that deconstructs the foundation of modernist moral theory, that is, the autonomous subject. Hekman goes on to outline a theory of subjectivity that explores the connection between morality and subjectivity. She draws from poststructuralists and deconstructionists in the conception of the subject, questioning the taken for granted transcendent disembodied subject. She develops her own discursively constituted theory, and the concept of the “discursive subject,” which is neither “relational, feminist, postmodern, nor a product of theories of race and ethnicity, yet it borrows from each of these discourses” (Hekman, 1995, p.109). Hekman attempts to break with the Western tradition of moral theory, deconstructing the epistemological foundations of the tradition itself.

Hekman turns to postmodernism and the ‘death of the subject’, which she considers is misleading, arguing that it has not been abandoned, but redefined. Hekman selectively appropriates aspects of postmodern theories in order to articulate her discursive subject. Her goal is to address questions raised by a feminist reconstruction of moral theory. While Hekman provides an illuminating discussion, selecting contributions by Derrida, Lacan and Foucault in relation to her concept of the discursive subject, I too wish to be selective. Here I am not so much concerned with the implications of Hekman’s new moral theory for feminist theory, but how she uses postmodern ideas to develop this. Hekman takes issue with the feminist critiques of modernism that have attempted to integrate a modernist subject with a postmodern constructed subject. She argues that there is an assumption in this debate that the relationship between these subjects is a binary opposition that must be resolved dialectically. Hekman argues that modernist and postmodern subjects are not opposites because they do not inhabit the same epistemological space. The epistemology informing the postmodern subject does not replace, but displaces the concept of oppositional subjects; the two approaches to the subject represent two irreconcilable paradigms.

Having developed and extended Gilligan’s thesis that moral voices and moral selves are inseparable, Hekman explores the relationship between subjects and moral voices. Hekman employs Wittgenstein and his concept of language games, and the argument that these are inseparable from ‘forms of life’, in order to help her in the reconceptualisation of her discursive subject. The notion of language games is used to connect her discursive subject to an understanding of moral voices that is “consistent

with the linguistic constitution of subjectivity” (Hekman, 1995, p.113). Hekman extends Wittgenstein’s concept of language games to include moral language games. As language games, different moral discourses constitute different forms of life.

Hekman argues that the moral language game is not just one among many language games, but unique and *the* language game central to the constitution of subjectivity. In arguing this point Hekman differentiates between the *content* and the *form* of moral language games. The content of moral language games is contextual, historical and located and so moral language games are multiple, varied and differ within cultures. The form of any moral language game, however, is unique because it contains within it a claim to certainty, to being right. Moral language games, like other language games, produce the criteria, the rules, for their own justification. Hekman argues that “what makes a moral voice *moral* is its connection to who we are and the certainty that entails” (1995, p.113).

Hekman considers that developing a moral voice and becoming a subject are inseparable; to become a person is to become a moral person. In addition, moral beliefs constitute the person: if moral beliefs change, then so does the person. This latter would entail a profound change in worldview, or conversion. This aspect of moral language games is unique as a language game. Hekman explains how in a moral language game the emphasis is upon action, what a person does and how they act reflects what they believe. It is not the same activity as making moral judgments, or comparing different moral beliefs as these activities belong to other language games such as philosophical analysis.

Having argued that different moral voices possess identities supplied by the discourses that define them as moral subjects, Hekman demonstrates that identity coexists with difference; it does not negate it (1995, p.112). Different moral discourses will define different kinds of moral agencies, and Hekman pursues questions of agency and action within these discourses. The moral subjects that Hekman describes are capable of resistance, and can and do take moral positions, make moral judgments and advance moral arguments. These behaviours are not based on the concepts of universal, abstract, moral principles, but are a product of the moral discourses that give rise to them; it is never *my* voice, but always *our* voice (Hekman, 1995, p.160). Hekman cites Minow

(1990) who points out, what now appears to be stating the obvious, that one of the key elements that divide people is different moral perspectives. However, Minow argues, “Denying the multiplicity of moral perspectives and demands does not make them go away; instead it marks a rigid either/or thinking that constrains moral understanding” (1990, p.222).

In reading Hekman, it is possible to perceive how feminist arguments of Gilligan’s work, with their emancipatory approaches to moral theory, have tended to remain within a modernist framework. In many cases the various ethics of care that different feminists have developed are still concerned with discovering the truth, avoiding accusations of relativism, and justifying their theories against the bastion of traditional moral philosophy. In many respects feminists argue that traditional moral philosophers got it wrong and their own objective is either to show how this happened or find an alternative way of getting it right. In arguing the existence of multiple moral discourses, moral language games, and a discursive subject Hekman provides a very different way in which people consider that they have got it right:

Thus, within the parameters of a particular moral language game, I can say with certainty that my moral judgment is right. In the context of a different language game – that of anthropology or moral philosophy, for example – I may acknowledge that the morality of my culture is a historical product and that other moral language games exist. But when I am actually engaged in moral argument and/or action, the discourse provides clear standards of right and wrong. (1995, p.126)

Here Hekman addresses the thorny issue of relativism. She argues that the content of moral language games is culturally relative, but the form of their employment is not. All moral discourses make the claim to rightness, but the standards of this moral rightness vary according to the different moral discourses. Furthermore:

My moral beliefs constitute who I am as a person. When I make a moral statement, I am not saying that I believe this is right but could just as well believe that something else is right. I am asserting that this *is* right; I would be a very different person if I behaved differently. ... If I had different beliefs, I would be a different person; I cannot fully understand what my form of life would be if I had a different set of moral beliefs, because moral beliefs are central to who I am. (1995, p.128)

Hekman emphasises that the form of moral arguments, not the content, make claims to correctness and so are not arbitrary and, “Although I may know on some abstract epistemological level that there are many moral language games, when I make a moral judgment, I am necessarily asserting its truth” (Hekman, 1995, p.160). Hekman also addresses the issue of the possibility of moral anarchy. In a later publication she discusses how it could be argued that in acknowledging multiple moral truths moral chaos will result, and that each individual will assert that his or her moral voice is as legitimate as the next. Hekman counters this explaining that the fear is based on “a misunderstanding of the operation of moral language games” (Hekman, 1999a, p.118). She goes on to argue that:

Moral voices develop in tandem with selfhood itself; both are processes that are constituted by participation in a community of values. ... We live in a world of multiple truths. We negotiate this world by relying on our established moral language games and the moral habits we have acquired. (Hekman, 1999a, p.119)

Hekman utilises an eclectic approach in developing her moral theory of the discursive subject, including the postmodernism of Lyotard. She argues, like Lyotard, that there is no master narrative and that we live in a world of many knowledges and many moral voices. Lyotard appeals to Hekman because he explores how we can live in the postmodern world as moral beings. Specifically, Lyotard & Thèbaud examine ethics and politics arguing that politics, as one genre of discourse, sets the rules for other discourses. Central to the discourse of politics is the language game of justice. However, this language game of justice is distinctive because “Transcendence is immanent to the prescriptive game” (Lyotard & Thèbaud, 1985, p.72). Hekman argues this is similar to the position she is taking, that there is a claim to rightness in a moral language game without recourse to a meta-narrative. Lyotard, for Hekman, offers a model for the construction of *a* (not *the*) postmodern approach to ethics and politics (Hekman, 1995, p.144).

Hekman concludes in *Moral Voices and Moral Selves*:

That our society possesses a hegemonic moral discourse seems indisputable; that this discourse is the “justice voice” that Gilligan identifies is also clear. What Gilligan argues is that there is another, “different” moral voice that the hegemonic voice has silenced. I have extended this argument to theorize a

multiplicity of moral voices constituted by race, class, and culture, as well as gender. Moral voices are connected to moral persons, persons who are concrete rather than disembodied. To have a moral voice is to participate in a common discourse, to embrace a form of life. There is nothing arbitrary, anarchic, or idiosyncratic about this. It is, quite simply, what we do. (1995, p.163)

This is the strength of Hekman's thesis for my purposes. In this study I utilise some of Hekman's arguments in my own approach to analysing and making sense, or no-sense, of the voices of the nurse educators and education managers. Her use of Lyotard is of particular interest in looking at moral voices and moral dilemmas. As already noted in Chapter Two, Lyotard offers an excellent critique of the university and higher education and so his work provides the third part of my theoretical framework.

Postmodernism, Lyotard and the Differend

Postmodernism offers a convincing critique of the Enlightenment project and modernism. I do not intend here to provide a history of the modernism-postmodernism debate (see Peters, 1995), but rather to extract from this ideas relevant to the discussion so far. As Rolfe (2000) points out, there are any number of critiques of modernism, however those that have as their target the way in which research is conducted, such as Kuhn and Feyerabend, rather than empiricism per se, all take place within the metaparadigm of science. Kuhn's scientific revolutions were revolutions within the scientific community, rather than revolutions against science. These writers were challenging method, the means by which science could be achieved, rather than the science itself.

Lyotard, however, challenges science per se. He argues that, in seeking truth, science legitimates the rules of its own game and, in doing so, produces a discourse of legitimation. This process is distinctly modern as Lyotard defines it:

I will use the term *modern* to designate any science that legitimates itself with reference to a metadiscourse of this kind making an explicit appeal to some grand narrative, such as the dialectics of Spirit, the hermeneutics of meaning, the emancipation of the rational or working subject, or the creation of wealth. (Lyotard, 1984, p.xxiii)

Here, Lyotard is concerned with the legitimation of knowledge, and how this is achieved by the appeal to some grand narrative such as the Enlightenment. Grand narratives are stories that claim to reveal the meaning of all stories, of little narratives. There is an assumption that there is one singular truth within little narratives and that this can be revealed by a metanarrative. Lyotard considers that grand narratives, especially those of the Enlightenment project, have failed. Instead of achieving emancipation through scientific rationality, these grand narratives have resulted in totalitarian regimes, destruction by weapons of mass destruction such as experienced in the Holocaust and Hiroshima, and increased gaps between the rich and poor. Lyotard defines “postmodern” as “incredulity toward metanarratives” (Lyotard, 1984, p.xxiv). He maintains, however, that little narratives are resistant to being incorporated into totalising grand narratives, and that they are able to displace scientific claims. This displacement is achieved by construing little narratives as an event, or performance, such as a language game. In his discussion of the legitimation of modern science, and the question of who decides what is true or what is to be regarded as scientific, Lyotard states:

It is recognised that the conditions of truth, in other words, the rules of the game of science, are immanent in that game, that they can only be established within the bonds of the debate that is already scientific in nature, and that there is no other proof that the rules are good than the consensus extended to them by experts. (1984, p.29)

There is a difference here between the notions of being ‘in authority’, which is political and involves power, and of being ‘an authority’, which is based on an epistemological concept. Lyotard argues that those in authority are well aware of the game of science and are able to manipulate it to their own ends, for example, “The State spends large amounts of money to enable science to pass itself off as an epic: the State’s own credibility is based on that epic, which it uses to obtain the public consent its decision-makers need” (1984, p.27). It is necessary, therefore, to reject those who are in authority, in favour over those who are an authority, by rejecting grand narratives in favour of little narratives. In doing this, authoritarian knowledge is rejected in favour of authoritative knowledge (Rolfe, 2000, p.58). Little narratives correspond to what Wittgenstein calls language games.

Liotard makes three observations about language games. These observations are that the players agree to the rules that are immanent to that game, if there are no rules there is no game, and each utterance denotes a move in the game. Lyotard outlines principles that underlie his use of language games, as a methodological approach. These principles include the idea that to speak is to fight, in the sense of playing. This agonistics of language is complimented by the notion that the observable social bond is composed of language moves. Lyotard states:

A self does not amount to much, but no self is an island; each exists in a fabric of relations that is now more complex and mobile than ever before...one is always located at a post through which various kinds of messages pass. No one, not even the least privileged among us, is ever entirely powerless over the messages that traverse and position him at the post of sender, addressee, or referent. (1984, p.15)

Thus, language games position the player as an active participant in the game, as having power within the agreed rules of the game. Lyotard considers language games to be the minimum relation required for society to exist. The language game is one of inquiry; it positions people in relation to who is asking the questions, the addressees, and the referents. The notions of little narratives, as language games, and their implications for truth, and the self, are explored in greater detail in the present study.

The *Postmodern Condition* (1984) is subtitled *A Report on Knowledge*. As discussed, Lyotard considers scientific knowledge to be a type of discourse. Lyotard specifically addresses the technological transformations taking place in the 1970s arguing that the nature of knowledge will not be able to survive unchanged. This development, he predicts, will have a huge impact on universities. Lyotard also provides an analysis, using his own postmodern ideas, of education and the way in which this has already changed. Lyotard argues education is legitimated via performativity. The desired goal has become the optimal contribution of higher education for the social system, that is, the most efficient, the best performativity. As a consequence, knowledge becomes important for its 'exchange value', not its 'use value'. Knowledge is no longer an end in itself; the purpose of universities is to supply the necessary experts and professionals required by the social system.

Lyotard opposes the legitimation of education via performativity. He employs his interpretation of Wittgenstein's language games to articulate his analysis. He states:

The stronger the 'move', the more likely it is to be denied the minimum consensus, precisely because it changes the rules of the game upon which consensus had been based...Such behaviour is terrorist...By terror I mean the efficiency gained by eliminating, or threatening to eliminate, a player from the language game one shares with him. He is silenced or consents, not because he has been refuted, but because his ability to participate has been threatened (there are many ways to prevent someone playing). The decision makers arrogance, which in principle has no equivalent in the sciences, consists in the exercise of terror. It says: "Adapt your aspirations to our ends - or else."
(Lyotard, 1984, pp 63 - 64)

In his discussion, Lyotard considers this repressive activity as a characteristic of institutions of knowledge and decision-makers rather than of science itself. Fritzman (1995) talks about decision-makers' arrogance and blindness, and the need to repress moves that may destabilise accepted positions. This process will be explored further in relation to the management of unsafe students, the way in which decisions are made, the different language games being played, their rules, and the different subjectivities they constitute.

The concept of the 'differend' is especially relevant to the present study. According to Lyotard, a differend, as distinct from a litigation, is:

A case of conflict, between (at least) two parties, that cannot be equitably resolved for lack of a rule or judgment applicable in both arguments. One side's legitimacy does not imply the other's lack of legitimacy. However, applying a single rule of judgement to both in order to settle their differend as though it were merely a litigation would wrong (at least) one of them (and both of them if neither side admits the rule). Damages result from an injury which is inflicted upon the rules of a genre of discourse but which is reparable according to those rules. A wrong results from the fact that the rules of the genre of the discourse by which one judges are not those of the judged genre or genres of discourse.
(Lyotard, 1988, p.xi)

Fritzman (1995) explains that because Lyotard believes differends are inevitable, politics are the pursuit of the lesser evil, not of the good. For Lyotard, differends cannot be transformed into litigations, and so wrongs cannot be treated as damages, and politics should seek to preserve and *bear witness* to differends. In this way, a politics of the

lesser evil would attempt to phrase wrongs so that they may be recognised as such and will seek to make decisions that minimise the wrongs that necessarily occur (Fritzman, 1995, p.68).

Lyotard argues that it is the aim of philosophers to detect differends, a cognitive task, and to bear witness to them, an ethical task (Peters, 1997). Lyotard is especially instructive when it comes to looking at the wider educational context of higher education, and the way in which institutions are organised and operate. Peters and Roberts argue that Fritzman's suggestion that education should teach students to be sensitive to the inevitable presence of differends is helpful, inasmuch as it promotes a respect for and willingness to investigate and live with uncertainty (as well as differends) (1999, p.110). As they point out, this appreciation of uncertainty demands that the world be rendered problematic, and not just for students. Peters and Roberts conclude their discussion, however, by arguing the emergence of a differend in tertiary education:

The gulf between those who play this language game – subscribe to the grand narrative of market liberalism – and those who wish to defend almost any other position on the purpose and character of a university is enormous. There is no rule that might be found to adjudicate between the parties involved in the dispute without one side being wronged, but to date the battle has been overwhelmingly one-sided. The litigating activities of politicians, bureaucrats and business elites have ensured that differends are hardly ever acknowledged, and questions about 'lesser evils' are seldom seriously considered. (1999, p.112)

Lyotard addresses the modern concept of justice in his dialogue with Thèbaud in the work *Just Gaming* (1985). In modernity, justice is underpinned by a set of principles derived from reason, resulting in a universally applicable concept; justice is intrinsically related to reason. As Pavlich and Ratner state, "Once it is rendered transparent, reason can then serve as the ground for moral principles whose fair and equal application is likely to yield justice" (1996, p.145). In the postmodern condition Lyotard considers justice to be an idea, not an object that can be turned into a norm. There are no criteria or principles with which to achieve, or define, justice; indeed there is a multiplicity of justices evoked by a heterogeneity of languages. Lyotard, with his incredulity towards grand narratives, states, "no one can say what the being of justice is" (Lyotard & Thèbaud, 1985, p.66). The many discourses, or language games, of justice are 'just

games' in the sense that they are games of the just. *Just Gaming* is not frivolous; justice involves playing by the rules of the different games and these games are always local, multiple and provisional (Best & Kellner, 1991, p.161). Just moves are always understood as moves in context, are always tactical, and take account of the context in which they appear. As such, justice is always in the future, is yet to be determined and is 'always on the way'. Lyotard considers that, in making judgments, we are obligated to the idea of justice. As he explains:

He who states the just is himself as caught in the very sphere of language as those who will be the recipients of his prescriptions, and may eventually be judged by the judge. The judge is in the same sphere of language, which means that he will be considered just only by his actions, if it can be seen that he judges well, that he is really just...And his actions can be judged to be just only when one adds up all the accounts. But in matters of opinion there is no adding up of accounts, no balance sheet. (Lyotard & Thèbaud, 1985, p.28)

So, as Readings comments, "the just person, the judge, does not make judgments, but is made by them" (1991, p.126). Judgments, then, can be seen as enigmatic: they follow no rules, for there are no rules that would do equal justice to both sides. Accordingly, the law "should always be respected with humour; it should be regarded playfully rather than seriously, since all its judgments are, in a way, arbitrary" (Rolfe, 2000, p.62).

Lyotard concentrates on the ethical and political discourses of justice and these are the main focus of his postmodern politics (Best & Kellner, 1991). Lyotard does not privilege any specific language game; there is no general theory of justice with which one can adjudicate in relation to differends. This leads back to the incommensurability of different discourses, different language games. However, we are condemned to make prescriptive statements and the problem of judgment is "that of finding the linkage which will testify to the differend contained in the phrase, which will not wrong the differend, silence it by pre-judging it" (Readings, 1991, p.127). Lyotard and Thèbaud consider that conflicts between language games can be eliminated, not by using the modern method of evoking a metanarrative or re-affirming some universal principle, but by using a postmodern approach in seeking novel rules, by creating new, innovative moves. Lyotard sums up this situation at the end of his introduction to *The Postmodern Condition* when he states:

Consensus does violence to the heterogeneity of language games. And invention is always born of dissension. Postmodern knowledge is not simply a tool of the authorities; it refines our sensitivity to differences and reinforces our ability to tolerate the incommensurable. Its principle is not the expert's homology, but the inventor's paralogy. (Lyotard, 1984, p.xxv)

Towards a Synthesis

The following synthesis brings together the main themes and ideas that I am utilising from the work of Gilligan, Friedman, Hekman and Lyotard in the philosophical discussion and analyses of empirical data. The purpose is not to reduce the theoretical framework, in all its complexity, but to make explicit key ideas and concepts that I will be using and to show how I position myself regarding these.

In *In a Different Voice* (1982) Gilligan searches for a way to reconcile the different voices she has heard casting them as complimentary rather than oppositional, and attempting to expand the model of moral development to include the relational voice of care and responsibility. Gilligan does not employ an interpretive framework of separate selves, but of relational selves. This leads to narratives being moral statements, but these are not based on abstract principles. She considers categories of knowledge are human constructions; for example, women make sense of their lives by constructing stories about themselves, but these stories are not fictions. Gilligan records that in the discussion of the dilemmas that women face they demonstrate a moral language. This language is one of selfishness and responsibility that defines the moral problem as an obligation to avoid hurt and exercise care (1982, p.73).

Gilligan demonstrates in her discussion that she is working within a modernist tradition while, as Hekman (1995) argues, undermining the same with her new relational voice of care. Hekman argues the two different voices identified by Gilligan occupy different epistemological spaces that are incompatible; that moral voices are inseparable from moral selves; and what we know and who we are is inseparable. Morality is inextricably connected to subjectivity and, therefore, the so-called autonomous subject of modernist moral theory is deconstructed. Hekman, using ideas from postmodernism, develops the concept of the discursive subject, a re-defined subject. She eschews binary oppositions, as found in many feminist critiques, and their appeals to dialectic for resolution of these oppositions. Instead, Hekman considers that different moral voices

possess identities produced and supplied by the discourses that define them as moral subjects. Different moral discourses define different kinds of moral agencies who are capable of making moral judgments, but these are the product of the moral discourse that give rise to them. This echoes the ideas of Lyotard in *Just Gaming* (1985) and the way in which the just person does not make judgments, but is made by them. Lyotard considers the self does not amount to much, but it would be wrong to regard the self as powerless and passive. It is within language games that subjects can make moves and play the language game. Different moral voices and the different discourses that give rise to them are explored in the following case studies, and attention is paid to the notion of agency, as a product of discourse, in decision-making.

Gilligan argues that there is a need for people to find the right answer, the truth of the matter, and so they will rationalise their moral voice in order to produce this result. Friedman describes how people sway one way, then another, when trying to make definitive moral decisions. Here Friedman argues, convincingly in my opinion, that abstract moral principles do not help, but reflect how limited they are in the face of the relativist view that there is no moral right or wrong. Gilligan's ideas regarding contextual relativity, and Friedman's arguments concerning partiality, are relevant in this thesis and are used to explore each case study.

Gilligan situates moral dilemmas within the concept of contextual relativism, arguing that moral 'right' and moral 'wrong' depend upon the players, and their parts, in context. Again, this is a startling departure from the scientific method, traditional empiricism, and the attempt to control all variables eliminating any suggestion of relativism. Gilligan tries to avoid the danger of relativism by arguing for different truths carried by different modes of language and thought, and replacing the notion of one truth with that of dualistic truth. However, the truths Gilligan identifies are internal to the theoretical perspectives that give rise to them, and, if these are considered as epistemologically incompatible, it is not possible to 'get it right', to discover the one truth. Hekman argues that the category of relativism is parasitic on its opposite, the possibility of absolute knowledge, and proposes a discursive system that displaces the absolute/relativist dichotomy. There is no one moral theory; knowledge is situated, connected and discursively constituted (1999a, p.32).

Gilligan provides a strong argument for a difference in moral reasoning between real and hypothetical dilemmas, a position that Friedman disputes. Friedman argues that it does not matter whether the dilemma is real or hypothetical; what is important is applying principles, albeit ones that privilege particular relationships. It appears however that Friedman has not listened carefully to Gilligan's voices, as her partiality argument does not appear to resolve the 'it depends' syndrome of moral dilemmas, as articulated by Gilligan's respondents. As Gilligan argues, hypothetical moral dilemmas separate the moral problem from the social contingencies from which they occur. In seeking greater contextual detail, women demonstrate that moral judgment is frequently about making a forced choice between two evils. Friedman's alternative integrationist, and communitarian model, is problematic. It could be argued that integration of moral voices does not resolve the moral dilemmas or the contradictions inherent in them. Instead, integration conceals both the dilemma and the contradictions; for example, the dilemma of having to choose between two evils.

The existence of moral voices and the ethic of care, as identified by Gilligan, and expanded upon by Hekman, play a central role in this thesis. Friedman argues for an integrationist approach to the two moral voices articulated by Gilligan. Gilligan remains somewhat equivocal regarding the compatibility between the two voices, moving from two distinct and separate ways of viewing the moral world to a more complimentary approach, in her later writing. In this thesis I take the position of Hekman who rejects entirely the notion of integration, maintaining that the two moral voices occupy epistemologically different space and are, therefore, incommensurable.

Gilligan describes women's reluctance to judge as emanating from care and concern for others. This reluctance is contrasted with those coming from a rights and justice perspective whereby it is a question of applying the rules and principles and, as such, is unproblematic. Friedman argues, however, that justice is not the only way of viewing the moral domain; justice does not have moral primacy. Judgments are, however, affected by who the players are and how they are interrelated. Two issues emerge from Gilligan's analysis regarding making decisions: not hurting others and making situations safe. Women's reasoning regarding this process can be easily misinterpreted; the language needed to explain their experiences is not readily available. Also, women doubt their right to make moral statements, or break rules over controversial issues. It is

here that Hekman's analysis of the two moral voices, as distinct moral discourses that are incommensurable, assists in finding a way out. Hekman's analysis allows a move away from binary oppositions, dichotomies, paradoxes and differences as linked to gender. Instead, there is a plurality of moral voices, but these do not deny the uniqueness of each voice as a moral language.

Gilligan is extremely perceptive in her linking of different truths with different modes of language and thought. Hekman develops this analysis using Wittgenstein's notion of language games and ideas from postmodernism. However it is Lyotard, also building on Wittgenstein's language games, who demonstrates how players in language games can be silenced or eliminated because their ability to participate is threatened. Lyotard provides a framework for exploring discourses, and the language games that they give rise to, and the way in which people are located within these discourses and make moves within the language games, or not. The language used, and the stories told, in relation to moral dilemmas, is of particular importance within the three case studies presented here. However, Hekman urges that we remember that it is never *my* voice, it is always *our* voice, when exploring moral language, moral agency and moral judgments. When a moral judgment is made the maker asserts its truth even though, on an abstract level, it is recognised as one of many.

Using the notion of Wittgenstein's language games, Hekman extends her argument of different moral voices to describe different language games. Hekman argues that, while there are many moral language games, these are not just *any* language game. Moral language games are *the* language game, central to the constitution of the subjects themselves. I consider that Hekman provides a powerful argument in her extension of the notion of language games, as moral language games, and I make use of this notion to try and make sense of the language games being played in the management of unsafe nursing students.

One strength of Friedman's argument is that she places more emphasis than Gilligan on the broader issues of social justice within the wider political, social and economic context within which moral dilemmas occur. Friedman argues that care ethics is inadequate for dealing with the moral relationships inherent in public life, or with the wider social context of governmental and economic institutions and practices.

However, in my opinion a weakness of Friedman's argument is that she remains within a modernist paradigm that I consider limits her analysis and does not satisfactorily address the underlying moral issues. In particular, in seeking resolution of moral dilemmas through an integration of the two moral voices of justice and care Friedman's approach disguises the contradictions inherent within them. In viewing these moral voices as commensurable, Friedman does not extend Gilligan's analysis in the manner in which Hekman does, and so does not uncover the power of these different discourses to dominate and silence other discourses.

Lyotard locates his discussion of *The Postmodern Condition* squarely in the context of European political, social and economic history and also critiques the Enlightenment project as a grand narrative, the one that legitimates modern science. Lyotard argues that little narratives, when conceived in the form of language games, as described by Wittgenstein, are able to displace scientific claims. To do this it is necessary to reject those 'in authority' for those who are 'an authority', and actively participate in the language game. For Lyotard, the self exists in a fabric of relations, and is positioned so as to influence messages that are addressed, sent and referred via the self.

The work of Lyotard helps to locate this thesis in the wider context and ask questions about who decides what knowledge is, who knows what needs to be decided and how the decision-makers gain their authority. In particular, his postmodern ideas, such as performativity and legitimation, regarding knowledge, education, and the institutions involved in providing education, are relevant to this study. In addition, Lyotard's notion of the differend, and his alternative approach to justice, and judgments, are used to examine the consequences of the competing language games in the context of tertiary education and the management of unsafe students. This is particularly pertinent in the examination of public safety and accountability, the overall focus of this thesis.

Summary

In this chapter the works of Gilligan, Hekman, Friedman and Lyotard have been used to develop a theoretical framework for analysing the three case studies presented in this thesis. The research question raises both ethical and political issues within the tertiary

education context. I have, therefore, incorporated work from an educational psychologist, a feminist moral philosopher, a political scientist and a philosopher all of whom look at ethical issues, and three of whom locate these within the wider political and social context. In particular, Hekman provides the means of moving between modernist and postmodern approaches so that moral dilemmas experienced in the tertiary education context can be viewed in a different - a postmodern - way. In turn, and as noted by Hekman, the work of Lyotard offers a model for the construction of a postmodern approach to ethics and politics (Hekman, 1995, p.145). This chapter has begun to explore how different moral voices produce different ways of viewing the world and how, when viewed as *moral* language games, they produce different forms of life. While the content of the moral language games are created discursively, the form each takes contains within it the claim to certainty and to being right. For my purposes, this approach has been particularly important as remaining within a modernist framework did not provide either satisfactory 'right' answers, or the truth of the matter. In using a postmodern approach I am avoiding seeking any transcendent or universal truths and, instead, recognise the presence of multiple truths and multiple realities leading to a multiplicity of right answers.

Moral voices, moral selves and moral language games are examined in Chapter Five and the three chapters presenting each of the case studies. Chapter Nine uses the work of Lyotard to locate the case studies in the wider tertiary education context and raises specific issues in relation to performativity, legitimation, and moral dilemmas as differends. The next chapter describes the methodology used in this research, and how this is congruent with the research question and consistent with the theoretical framework.

CHAPTER FOUR

METHODOLOGY

This chapter follows the structure provided by Denzin and Lincoln (2000) whereby they divide the qualitative research process into five phases: i) the researcher; ii) interpretive paradigm; iii) research strategies; iv) methods of collection and analysis; and, v) the art, practices and politics of interpretation and presentation. They claim that behind these phases stands the biographically-situated researcher and that each of the five levels of activity entails engagement with this biography.

The Researcher

Over the years I have been employed as a registered nurse and nurse educator, and had a variety of managerial roles and responsibilities in nurse education and the tertiary education sector. Each of these roles has entailed having different responsibilities regarding issues of education and management, resulting in different perspectives. For example managing a nursing student, who had demonstrated unsafe behaviour, as a lecturer, faculty registrar, and head of school of nursing, involved very different approaches. In each of these challenges I tried to resolve areas of conflict using the various managerial and institutional tools available, while also maintaining personal integrity. Although aware that my approach to what I perceived as moral dilemmas shifted with each different role, I considered this to be largely contingent upon my varying responsibilities and specific social contexts.

Schwandt (2000) considers moral issues arise from the fact that a theory of knowledge is supported by a particular view of human agency. In attempting to resolve moral dilemmas in education, using concepts from traditional and modern moral philosophy, I concentrated on trying to find the 'right' answer, and the 'truth' of the matter. As an academic I have in the past operated firmly within a modernist paradigm, albeit a constructivist one, and overall my epistemological and ontological beliefs have been underpinned by a classic Marxist analysis. When I commenced the present study, I still wished to embrace an emancipatory agenda, to effect some change that would improve

the lot of students, lecturers and education administrators. However, it became clear that, when looking at moral dilemmas, using a classical Marxist analysis did not address the contradictions inherent in the dilemmas in a way that, for me, was satisfactory. The research topic here is both ethical and political and it was necessary to find an ethical, as well as political, theoretical framework with which to underpin my methodology.

In this study my epistemological and ontological beliefs were challenged as ideas from moral philosophy and postmodernism were adopted. Subsequently my view of moral agency changed. I now consider that individuals are not just socially constructed, but that subjectivities are produced by various discourses, and subject positions made available to them within these. In addition, individuals engage in language games in which they are able to be active participants. I consider that there is congruence between my theoretical framework presented in Chapter Three and my worldview, a requirement emphasised by both Cheek (1998) and Dixon (Wood & Giddings, 2002).

Interpretive Paradigms

Guba and Lincoln argue,

Questions of method are secondary to questions of paradigm, which we define as the basic belief system or worldview that guides the investigator, not only in the choices of method but in ontologically and epistemologically fundamental ways. (1994 p.105, cited in Christians, 2000, p.149)

Similarly, Sarantakos (1998) states that methodology is determined by the principles of research contained in the researcher's paradigm. Schwandt (2000) discusses how the practice of social inquiry is a distinctive praxis, a kind of activity that, in the doing, transforms the very theory and aims that guide it. In undertaking research the researcher inevitably takes up theoretical concerns about what constitutes knowledge and how it is to be justified. Finally, Lincoln and Guba (2000) add that axiology should now be considered as part of the basic beliefs, the metaphysics, of inquiry paradigms.

The initial research question in this study arose from personal experiences of nurse education and the management of unsafe students. The processes and structures utilised to resolve these issues frequently left the students, the nurse educators and academic

administrators in disarray and, in many cases, created further emotional and psychological discomfort. It can be seen then that the research topic is not value-neutral, that there is already a history to an issue that is both moral and political. As such, I have sought to locate a paradigm that has ethics embedded in it, rather than external to it.

The theoretical framework described in Chapter Three incorporates aspects of moral philosophy, feminism and postmodernism from the works of Gilligan, Friedman, Hekman and Lyotard. Initially, the work of Gilligan, working within a social constructivist paradigm, informed my methodology and, in particular, the choice of research strategy and data analysis. Gilligan's emphasis on different moral voices, moral dilemmas and moral reasoning resonated with my experiences, and those reported by others engaged in nurse education. The critiques of modern moral philosophy by feminists, and the development of the work of Gilligan and its implications for a feminist moral philosophy, enabled me to develop a more philosophical approach.

Hekman, building upon Gilligan's work, provided insights from both feminism and postmodernism that provided a way forward in my thinking. Hekman enabled a shift to take place from a modernist paradigm toward a postmodern perspective and introduced ideas that could be used to examine moral dilemmas in context. In addition, the work of Lyotard further enabled me to build and develop a specific philosophical position. Cheek (2000, p.124) considers that postmodern and poststructural approaches have a place alongside other theoretical perspectives and methodological approaches and that it is not an either/or situation. Similarly, Rosenau (1994, cited in Cheek, 2000) argues that modern and postmodern approaches do not exist as separate entities, but are heterogenous collections of views that overlap at the edges. Lincoln and Guba (2000) emphasise that it is possible to blend elements of paradigms providing they manifest and share similar fundamental ideas. My approach is therefore eclectic. I have used a modernist paradigm in the development of the research question and the empirical part of the research strategy. However, I have incorporated ideas from feminist moral philosophy and postmodernism in the art, practice and politics of interpretation and presentation of my thesis. I am not seeking, in modernist tradition, any transcendent or universal truths, but instead I recognise the presence of multiple truths and multiple

realities. This approach displaces the notion of a rational and unified subject with one of multiple subjectivities.

Research Strategies

In her research, Gilligan listened to women's stories and was able to discern different voices between men and women emanating from different ways of knowing. The research here aims to explore how unsafe students have been managed, and how those involved perceived the events. It was, therefore, essential to let people tell their own stories of their own experiences. The research strategy that presented as the best fit, and which was congruent with my research paradigm, was that of case study.

Case Study

Stake (1995) comments that it is not unusual for the choice of case in case study to be no choice at all and that we can even feel obligated to take it as the object of study. In many respects this was my own situation as I not only wished to make sense of my own experiences, but also make visible moral dilemmas in the management of unsafe nursing students.

Stake (2000a) considers that case study is not a methodological choice, but a choice of what is to be studied. The case itself is the object of study. Yin (1994) defines the case study by its scope, including contextual conditions, and he considers case study to be a comprehensive research strategy in its own right. That is, case study employs all-encompassing methods and it benefits from the prior development of theoretical propositions to guide data collection and analysis. There is much discussion regarding the use of case study to generate theory, and as a method for testing theory (Eisenhardt, 2002; Gomm, Hammersley, & Foster, 2000). In this study accountability for public safety in nurse education was the issue initially identified as the primary focus of the research. The method identified for exploring this issue was via case studies of the management of unsafe students. It follows then, from earlier comments on my theoretical framework, and the contextual nature of the subject matter, that case study was not just a method of data collection for the purpose of this study, but an appropriate

methodology. In modernist language, therefore, I am both testing theory and seeking to generate theory, and I am adding to the body of knowledge using a particular theoretical framework.

Most writers on case study define cases as bounded systems (Creswell, 1998; Eisenhardt, 2002; Stake, 2000a; Yin, 1994). The cases are bounded by time, place and location, including the physical, economic and social setting. The case is a system and may be functional, dysfunctional, rational or irrational (Stake, 2000a). Of the three types of case study identified by Stake - intrinsic, instrumental and collective – the cases presented here fit all three categories. That is, insights into the specific case of the management of unsafe students were sought in individual cases; different stories from different individuals within each case were obtained to explore different voices; and general understandings were sought regarding issues shared across cases, such as accountability and the experience of moral dilemmas.

One of the criticisms of case study, as methodology, is the thorny issue of generalisation (Gomm et al., 2000). However Robson (1993) makes the point that because case study makes contact with the reader's own tacit knowledge of related or similar situations this encourages generalisation. Lincoln and Guba comment that case studies:

Permit the reader to build on his or her own tacit knowledge in ways that foster empathy and assess intentionality, because they enable the reader to achieve personal understandings in the form of “naturalistic generalisations,” and because they enable detailed probing of an instance in question rather than mere surface description of a multitude of cases. (1985, p.358)

Stake claims that case studies are often the preferred method of research because they may be epistemologically in harmony with the reader's experience and so, to that person, a natural basis for generalisation (2000b, p.19). Elsewhere Stake (2000a) refers to this as ‘vicarious experience’ whereby readers extend their memories of happenings; the reader comes to know some things told, as if he or she had experienced it. Adelman, Kemmis and Jenkins (1980) refer to this as ‘surrogate experience’ whereby the tacit knowledge of the reader is appealed to and the case study produces a ‘shock of recognition’. This phenomenon was demonstrated in the current study from discussions with my academic colleagues and peer group regarding my proposed research, and its

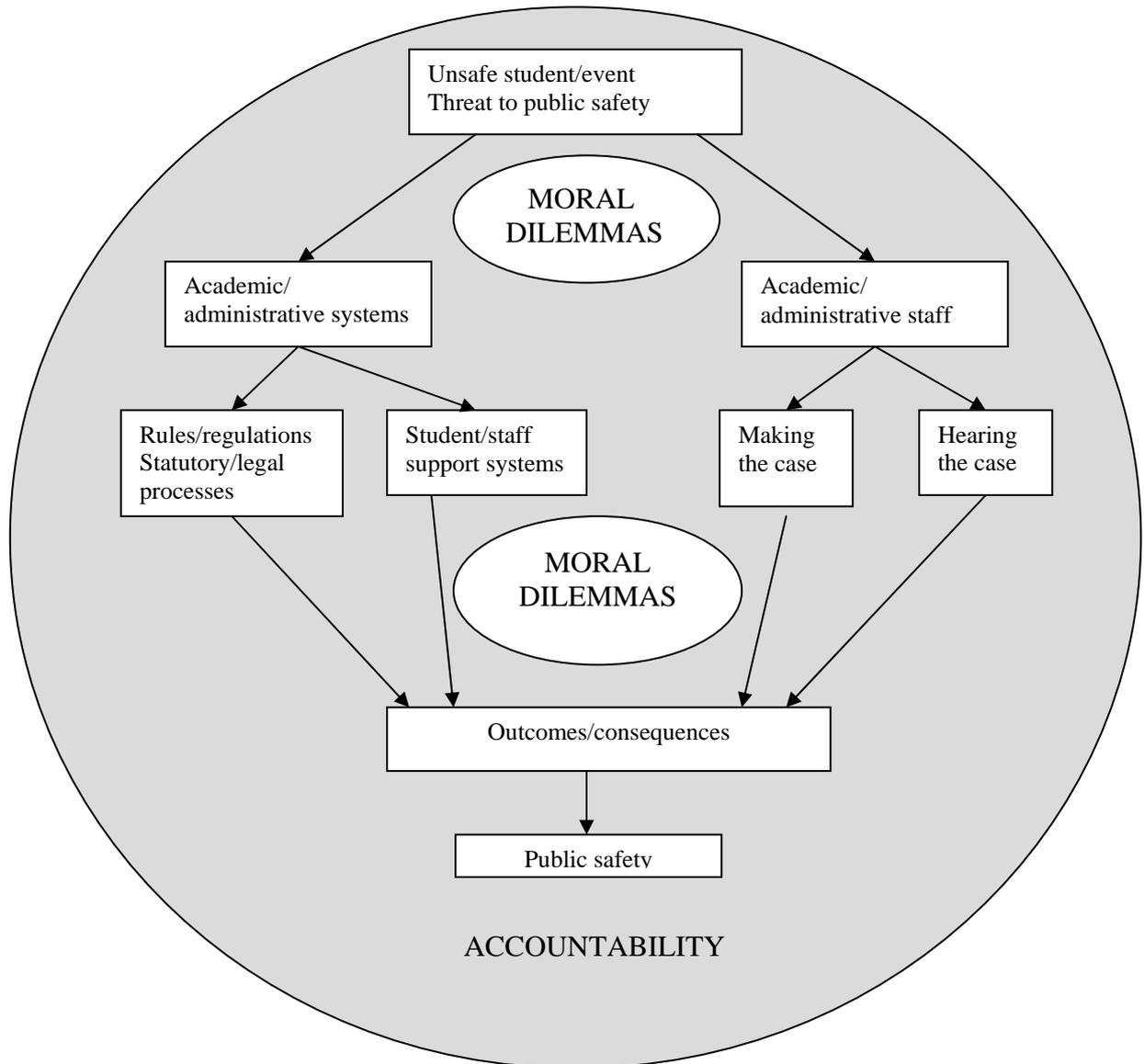
credibility as an area for investigation. Almost immediately the person(s) I was talking to had a ‘story’ to tell, or a case, regarding a moral dilemma or tension involving a student whom they had taught or managed. The subject matter was immediately familiar to them from their own experience, or the experiences of their colleagues, in the tertiary context. Many different people are involved in the management of unsafe students including administrative and academic staff. It is therefore anticipated that nurse educators and tertiary education managers when reading the case studies presented here may experience, vicariously, a shock of recognition.

In his discussion of Polanyi’s distinction between propositional knowledge and tacit knowledge, Stake (2000b) concludes that the case study will often be at a disadvantage if explanation, propositional knowledge and law are the aims of inquiry. This situation is reversed when the aims of inquiry are understanding, extension of experience and increased conviction of that which is known. As identified previously, the study here aims for the latter.

Case Study Design

Many authors on social research urge the researcher to identify the different levels of inquiry, and the specific research questions at different stages of the research process (see Creswell, 1998; Denzin & Lincoln, 2000; Huberman & Miles, 2002; Robson, 1993; Sarantakos, 1998; Stake, 2000b; Yin, 1994). Yin (1994) recommends developing a case study protocol for the questions to be asked of the individual case study. These questions act as reminders regarding what information needs to be collected and why, serve as prompts in asking questions during individual interviews, and aim at keeping the investigator on track as data collection proceeds. In this study an issues approach is used, as described by Stake (1995), in order to focus attention on complexity and contextuality. As Stake states, “issue questions or statements provide a powerful conceptual structure for organising the study of a case” (Stake, 1995, p.17).

Figure 1 Conceptual Framework



Robson (1993) recommends developing a conceptual framework and a set of research questions as the first steps in case study design. The conceptual framework includes the main features of the case study, and their presumed relationships. It is developed to help make explicit what you think you are doing and, as a result, what data you need to collect and how you may go about it. This conceptual framework, produced prior to the study commencing, is then subsequently revised and amended as the study progresses. An initial conceptual framework of the management process of an unsafe student was developed and is provided in Figure 1. This model provides an idea of how the

structures and processes involved were perceived, and linked, and helped me identify the area of inquiry.

The research aims, and the research methods used to achieve them, are provided in Appendix A. The aims that required empirical data collection and analysis in this study were:

- investigate how challenges to public safety have been managed within the tertiary education sector
- explore the implications and consequences of challenges to public safety for nursing lecturers, students and education providers in relation to accountability
- explore factors which constrain or facilitate the management of challenges to public safety in nurse education.

These three aims, or issue statements (Stake, 1995), and the conceptual framework, informed the development of the case study research questions (see Appendix B). These case study research questions were primarily etic issues, that is, they were identified from my own experiences, observations and reading of the literature. During the course of the research, emic issues emerged from the participants themselves. With this process it became important to focus on the overall cases as each issue, for example unsafeness, tended to take on a life of its own and become more intriguing and complex than the cases themselves. This problem is common in case studies where there is frequently tension between the issues and the case (Stake, 1995, p.25). In this research, issues framed much of the analysis of the data, and so the case studies then became more instrumental than intrinsic.

In this study, three cases involving the management of an unsafe student were identified and developed. Each case was developed as an independent case study and analysed separately reflecting “the intrinsic study of a valued particular” (Stake, 2000a, p.439). This separate analysis allowed specific themes and issues to be identified within each case study using the processes of categorical aggregation and direct interpretation (Stake, 1995). In addition, the development of the theoretical framework continued as a parallel activity to data collection and analysis and, as such, an iterative process took

place between data analysis, the generation of theory and the application of theory (Eisenhardt, 2002; Gomm et.al, 2000). Once all three case studies had been analysed then specific themes found in all three cases, such as safety and accountability, were examined using cross-case analysis. This process reflects the method of collective case study as defined by Stake (1995).

Selection of Cases

As a member of Nurse Education in the Tertiary Sector (NETS), a national group comprising heads of school and programme leaders from all tertiary education organisations, I gained informal support for the proposed research prior to undertaking it. In this research, case study was not being used to assess the incidence of unsafe nursing students or to discover their particular experiences, but to explore issues regarding management of these students and decision-making involved in this process. The frequency or occurrence of unsafe students in any given nursing programme was known to be relatively small (Drake & Stokes, 2004). This necessarily affected the number of cases available for research purposes and so schools of nursing were purposefully selected and invited to participate in the study (Creswell, 1998; Eisenhardt, 2002). In particular, personal knowledge of each of the fifteen school of nursing and their respective heads of school and programme leaders resulted in the elimination of those who claimed not to have experienced problems in the management of unsafe students.

Initially four schools of nursing were chosen whereby the head of school or programme leader had made it known to me that they had experience of managing failing, and unsafe, students. They had also expressed a willingness to be involved in research to explore this issue. These four schools did in fact represent a cross-section of undergraduate nurse education providers in New Zealand and were small, medium and large in terms of their undergraduate student numbers. They were also spread geographically across New Zealand. Once ethical approval had been obtained (see Appendix C), I made initial contact with the four heads of school by telephone. I asked each head of school if, in principle, they were still willing to participate in the research. The extent of their experience and involvement in the management of nursing students,

who had presented as being a threat to public safety, was also ascertained in these conversations. One head of school explained that it had been five years since the school had experienced managing an unsafe nursing student and that many of the key personnel involved in this case had since left the organisation. After discussion with the head of school it was decided not to include this school as a case study. The remaining three heads of schools I contacted informed me that they had managed unsafe students within the last five years, and that they would be able to identify at least one case as a specific focus for a case study. These three schools filled the desired criteria of organisational structure, size and location. One school requested I submit my research proposal to the organisation's Research Committee for approval, and this was obtained.

The selection of participants from the three schools of nursing followed a specific protocol (see the section on Access below). If it became clear before data collection began that potential participants had very little experience and involvement with the management of students considered unsafe, then they would be excluded from the study. Clinical staff involved in the evaluation of students' clinical performance were not included in the research design as clinicians, in the specific cases chosen for this study, were not employed by the tertiary education providers. As such, they did not have responsibility or authority for failing students as the nurse educators did. Clinical staff were, however, expected to provide documentation and performance records to assist nurse educators in their decision-making.

Students were also excluded from the study. The primary reason for this decision was that the focii of the study was on the experiences of nurse educators, and education administrators and managers within the political, social and economic contexts of three tertiary education providers. Inclusion of students, unsafe or otherwise, would have resulted in shifting the focii and, whilst it could be claimed students also have accountability for public safety, this accountability is ethical and moral and not a legal requirement, as it is for nurse educators. Secondly, there were logistical issues regarding the inclusion of students. In particular, there was an emphasis in this research on maintaining anonymity and confidentiality of the individual students considered unsafe. Any attempt to include unsafe students would have raised ethical issues regarding privacy, as well as logistical difficulties in locating them. Finally, it is

acknowledged in this study that the voices of students are absent and that this is both a limitation of the study and an area for future research.

Access

Each head of school was sent a copy of the Participant Information Sheet (Appendix D) and the consent form (Appendix E) for signature and return. The head of school was also asked to identify individuals within the organisation who were directly involved in the management and decision-making process, if they were not already directly identifiable from public records, and whom they thought might be useful participants. The head of school then initiated contact, in confidence, using an introductory letter provided by myself (see Appendix F), and a copy of the Participant Information Sheet. These potential participants were requested to respond directly to myself regarding possible participation in the study, and not to the head of school, to ensure confidentiality. Potential participants who were identifiable from public records were approached directly by myself. Consent forms were sent, completed and returned prior to interviews being conducted.

Ethical Considerations

Ethics approval was obtained from the University of Auckland Human Subjects Ethics Committee for the proposed data collection (see Appendix C). Participants in educational organisations were to be asked to recall events and situations that may have been the cause of psychological distress. Therefore, prior to the interview, it was ascertained that appropriate support was available to each of the participants, and the process for accessing this support was discussed. All potential participants were lecturers, senior managers or administrators within their organisations. It was expected that, as such, they would have developed mechanisms for dealing with stress, especially regarding the subject matter of this study. Again, this was clarified prior to the interview starting. In each interview participants were advised that data collection would be discontinued if they exhibited signs of marked distress. Participants were reminded that they could withdraw from the interview at any time.

Participants were offered copies of their own transcribed interview in order to check their contribution and assure themselves that anonymity and confidentiality had been maintained. Interviewees were reminded that participation was entirely voluntary and that they could withdraw their contribution at any time up until the completion of data collection, especially if they considered participation might result in professional compromise, or institutional vulnerability. No participants activated this option. In the case of the Chief Executive Officer of the NCNZ it was not possible to conceal the identity of this national figure. Instead, the Chief Executive Officer indicated in the course of the interview material that she did not wish to have included in the research. In addition, it was agreed that any material quoted from this interview would be checked with her prior to publication.

It was made clear at the outset that the unsafe students themselves were not the focus of the case studies. The focus of the research was unsafe behaviour, the consequences of this behaviour and the processes involved in managing the situations. The experiences of each individual involved in the process, except the student, were the major concern. As such, the participants and I preserved the students' anonymity and did not disclose any personal details that could identify the students to readers of this study. As a caveat to this statement it needs to be noted that the behaviours leading to the identification of any student as being unsafe, or not fit and proper and of good character, are similar and have common themes. It is entirely possible therefore to experience a feeling of recognition when reading descriptions of student behaviour, but this should be interpreted as vicarious experience, the shock of recognition, inherent in case study, as discussed earlier.

Considerable thought was given to the issue of gender allocation in the presentation of the empirical data. The small population engaged in nurse education in New Zealand made it possible that individual participants might be identified through gender allocation and organisational position. However, the theoretical framework developed had a gender element to it and, at the early stages of the research, it was not clear if gender would be a significant theme. I therefore decided to retain the gender assignment of individuals. In order to test whether anonymity was maintained, three trusted nurse educators, who would have some personal knowledge of the schools of nursing involved, were asked to read the case study synopses, and sections of the case

studies themselves. They reported that the identities of the organisations and participants were not evident, and so confidentiality and anonymity had been maintained. In addition, there have been considerable changes in personnel in schools of nursing nationwide since data collection took place. So it is with confidence that any claim to recognition, by other than the participants themselves, would just as likely fall into the category of vicarious experience.

Methods of Data Collection and Analysis

The use of multiple sources of evidence in case study methodology differentiates it from others and is a major strength. Multiple sources of evidence increases both validity and reliability in case study (Creswell, 1998; Denzin & Lincoln, 2000; Eisenhardt, 2002; Stake, 2000a; Yin, 1994). In this research, the case studies were developed from data concerning events that had already taken place. It was not, therefore, possible to include observation, or participant observation, as sources of evidence. In the following three case studies the multiple sources of evidence are the various individuals who were involved in the management of the same unsafe students, or who had experience of managing unsafe students in that particular tertiary education organisation. Interviews were also held with two nursing agencies outside the educational organisation involved in the nurse education process. Additional documentation was collected regarding institutional policies and procedures, as well as factual data regarding each school of nursing and its host educational organisation.

Interviews

Semi-structured interviews were conducted with four to six individuals for each case study. An interview schedule was drawn up based on the research questions and the conceptual framework. In each of the three cases the heads of school, third year coordinators, and deans were interviewed. In two cases lecturers who had been involved in the management of the students, and identified by the head of school using the access protocol, were interviewed. Two organisations had registrars, and one organisation also had a head of nursing, and a programme leader, due to its size. All these individuals were interviewed. In one case, due to recent organisational changes, a

previous head of school was interviewed. Interviews were also conducted with the Chief Executive Officer of the Nursing Council of New Zealand, and with one professional advisor for the New Zealand Nurses Organisation who had experience of representing and supporting failing nursing students within the tertiary education context. A total of 19 interviews were undertaken.

Interviews lasted approximately one to one and half hours and were conducted in venues mutually agreed with the participant, most frequently their office. Interviews were tape-recorded and transcribed by myself ensuring anonymity and confidentiality at all times. Convention has been followed in the transcription of interviews by the introduction of sentence-like structures, for example with the insertion of punctuation. However, judgments have been made in this practice and, in so doing, have imposed a structure on the texts.

Documentation

Documentation relevant to the case studies was collected from each education institution. This documentation included copies of formal policies, procedures, rules and regulations, and institutional statutes. Where possible student handbooks were obtained, or photocopied with permission. Similarly, copies of records of committee proceedings, which were part of the public record, were obtained where relevant.

Other organisational documentation regarding the profile of each educational institute was collected, for example, annual reports, and public relations and advertising literature, such as recruitment leaflets and prospectus.

Analysis of Data

As Stake (1995) comments, there is no one particular moment when analysis of data commences. I kept journals during the process of data collection, recording first impressions and other points of interest, in addition to the interviews. However, analysis did not commence until all interviews had been completed, and tape-recordings transcribed, for all three case studies.

As both Stake (1995) and Robson (1993) state, data analysis essentially means taking the data apart in some way, identifying how different parts relate to each other, or are new to us, and then putting it all back together to form some consolidated picture. Each interview transcript was analysed line by line and this process was greatly enhanced by the use of the software package QSR NVivo®. The two main data analysis strategies used in the empirical part of this study are those described by Stake (1995) as categorical aggregation and direct interpretation. The former refers to identifying several instances of individuals' descriptions, or behaviour, until they can be called a class. Direct interpretation refers to individual instances where the behaviour or description may be unique, or only appear once. As etic issues were found, and emic issues emerged, I returned to each transcript several times resulting in a process of total immersion in the data.

Lincoln and Guba (2000) consider reflexivity, the process of reflecting critically on the self as a researcher, as the conscious experience of the self as both enquirer and respondent. They state:

Reflexivity forces us to come to terms not only with our choice of research problem and with those with whom we engage in the research process, but with our selves and with the multiple identities that represent the fluid self in the research setting. (Lincoln & Guba, 2000, p.183)

In this research, I arrived having worn many different hats, and experienced many different and situationally created selves. It has been crucial to acknowledge this, and take account of it, in the course of data collection and analysis. The writing of the cases themselves formed a considerable part of the analysis. In bringing reflection to the research, I have attempted, "to place my best intellect into the thick of what is going on" (Stake, 2000b, p. 445) and to provide a rigorous and ethical account of the cases.

The Art, Practices, and Politics of Interpretation and Presentation

Denzin and Lincoln (2000), along with others such as Cheek (1998) and Rosenau (1992), discuss the crisis of representation that has been created by new models of truth and meaning, and by new approaches to social inquiry such as postmodernism and poststructuralism. Lincoln and Guba (2000), in their discussion of paradigms and

controversies, expand on issues that they consider most contentious. One of these issues is axiology, as a branch of philosophy dealing with ethics and the theory of value. They argue that one way to achieve greater confluence among various interpretivist inquiry models is if these models “share axiomatic elements that are similar, or that resonate strongly between them” (Lincoln & Guba, 2000, p.174). As stated earlier, I have sought to locate a paradigm that has ethics embedded in it, rather than external to it. In this research, the works of Gilligan, Friedman, Hekman and Lyotard that I draw on share a focus on ethics and it is this that allows a path to be woven between the different approaches employed and, in particular, between modernist and postmodern interpretations.

As noted in Chapter Three, Gilligan (1982) used a different methodology to that normally used by developmental psychologists at that time. She emphasised the importance of allowing women to tell their stories, and listening to them to hear the different voices that emerge from them. Hekman (1995) argues that Gilligan has articulated a new paradigm, in the Kuhnian sense, but accepts that Gilligan is not specifically concerned with methodological issues. However, the question of method is central to Hekman’s thesis that particular moral theories are inextricably linked to particular epistemologies (1995, p.30). In this thesis, the method of listening to stories is used to locate different moral voices in each case study. These moral voices, and the moral selves they give rise to, are examined with respect to different moral language games.

Lyotard also describes a method for exploring stories that we tell about ourselves, that are told by others, and that are told about us (1984, p.9). He describes these utterances as language games that obey specific rules (see Chapter Three). The ways in which participants in the three case studies engage and play different language games, including moral language games, are explored using the theoretical framework developed in Chapter Three. Cheek makes the point that no theory is value-free, but “theory actively shapes the possibilities for a particular analysis and defines the parameters of the subsequent discussion” (1998, p.80). Borrowing a phrase from Foucault, she emphasises that theories are ‘instruments of analysis’ and can assist and enhance analyses, but they are not ends in themselves.

Robson (1993) comments those researchers using qualitative methods must take note of the potential for bias in the collection and analysis of data. In this chapter, the use of Denzin and Lincoln's five phase structure to make visible the biographically-situated researcher has shown how my bias has been acknowledged in the process. The final phase addresses the criteria for judging the adequacy of the empirical research, as well as the way in which the analysis has been presented.

Trustworthiness

The normal criteria used for judging adequacy in quantitative research involve the concepts of validity and generalisability. These criteria are not being used here. Instead the framework provided by the United States Accounting Office 1990 (Robson, 1993; Yin, 1994) will be applied as this is more appropriate for establishing trustworthiness for the methodology used in this study.

Credibility

'Credibility' is a parallel construct to 'internal validity' and is used to demonstrate that the inquiry was carried out in a way that the topic of research was accurately identified and described. One method for achieving this is via member checking whereby drafts of analysed transcripts are submitted to participants for review. This practice is very popular within nursing research (Traynor, 1997), however it has not been attempted here. This is primarily due to the complexity, not to mention the emotive potential, of the theoretical framework underpinning the analysis. In addition, the practice of member checking seems, to me, to reposition the participants from being an authority, of their own experiences, to being in authority regarding the validity of the research analysis, which is not the purpose in establishing credibility. Instead, participants were presented with an individual copy of their own particular interview transcript. This provided them with an opportunity to check the contents for accuracy and to make amendments or additional comments as desired. I received additional and useful comments from three of the participants. Four other participants replied that the transcripts were an accurate portrayal of their thoughts and ideas.

In this study, two other methods for achieving credibility were used. Triangulation has been generally considered a process of using multiple perceptions to clarify meaning, verifying the repeatability of an observation or interpretation. Triangulation is one acceptable means of achieving credibility of the data. However, there is a problem with this criterion when using constructivist or postmodern paradigms inasmuch as credibility, as truth value, is almost an oxymoron. Stake recognises this when he notes “it is not surprising to find here a tolerance of ambiguity and the championing of multiple perspectives” (2000a, p.443). Notwithstanding this situation:

There is no less urgency for researchers to assure that their senses of situation, observation, reporting and reading stay within some limits of correspondence. However accuracy is construed, researchers don't want to be inaccurate, caught without confirmation. (Stake, 2000a, p.443)

In this research, each case study contains several ways in which the phenomenon is reported as each participant provides a different account of their experiences of the management of, where possible, the same unsafe students. This ‘thick description’, to use Geertz’(1973) concept, includes conflicting perceptions within the differing contexts of the three educational organisations. As such, these present a substantive body of incontestable description.

In addition to triangulation, another process for ensuring credibility was employed throughout the research, that of peer debriefing. I consistently exposed my analysis and findings to a group of educators and nurse academic colleagues, who were not involved in the case studies or data collection (always ensuring that anonymity was maintained). This process enabled me to make explicit my thoughts, remain open to constructive feedback and ensured that I remain grounded and focussed on the data.

Transferability

Transferability refers to the way in which the study acknowledges its scope and boundaries. It relies on thick description so that the reader can make their own judgment, in terms of their own experiences. It is here that the reader may make what Stake refers to as ‘naturalistic generalisations’ which are “conclusions arrived at through personal engagement in life’s affairs or by vicarious experience so well

constructed that the person feels as if it happened to themselves” (1995, p.85). Each of the case studies here is unique. The case studies also share certain features. However, it has not been the aim of this research, nor would it be appropriate, to seek propositional generalisations from the particular to the general.

Dependability

Dependability is analogous to reliability and is necessary, though not sufficient, for credibility. Dependability involves the consistency of the findings, and the stability of the research design, in relation to the research question and methodology. One method of establishing dependability is via an audit process. Yin (1994) recommends maintaining a chain of evidence. The purpose of this is to allow the external observer, the reader of the case study, to follow the derivation of any evidence from initial research question to ultimate case study conclusions (as in criminological investigations). While I have not presented this study using the audit protocol described by Yin, sufficient detail regarding the links between the research questions, the research design, data collection and analysis is provided for the reader to follow the steps of the process followed.

Confirmability

Confirmability relates to whether the procedures involved in producing the case studies have been described so explicitly that the sequence can be followed from initial questioning to conclusions. I consider that enough information is provided in this study for the reader to judge the adequacy of the process and to assess whether the findings flow from the data and analysis.

Finally, confirmability also looks at whether competing interpretations or conclusions were carefully considered. Given the theoretical framework used in this study it is entirely possible to reach different conclusions and interpretations and, where possible, these are considered. However, it is not expected that any truths will be established, given the presence of multiple realities and multiple discourses. Stake is helpful regarding the interpretation of case studies when he states,

It is my integrity as a researcher that I beg to be recognised, that my interpretations be considered. In my analysing, I do not seek to describe the world or even to describe fully the case. I seek to make sense of certain observations of the case by watching as closely as I can and by thinking as deeply as I can. It is greatly subjective. I defend it because I know no better way to make sense of the complications of the case. I recognise that the way I do it is not the “right way.” (Stake, 1995, p.77)

Key Assumptions and Limitations

The original research question in this study ‘Where does accountability for public safety in nurse education rest?’ was a vehicle for investigating how, where and by whom are students and events, which potentially threaten public safety, managed. It was accepted that the term ‘accountability’ was both emotive and value-laden within this context.

Initially, there was an assumption that the majority of those involved in the management of unsafe students experienced some form of moral dilemma, or feelings of incongruity. In addition it was considered that these moral dilemmas, and incongruence, could well be produced by conflicts between different value systems and beliefs such as the rights and justice or the ethic of care perspectives. However, I recognised that I needed to keep an open mind regarding these assumptions to allow the participants the opportunities to have their own voices heard. In the event, different voices emerged and the assumptions were challenged.

The major limitation of the study is related to the ability to generalise from the findings. Much of the literature on case study tries to make some definitive statement regarding whether it is possible to generalise from the particular (Gomm et al., 2000; Huberman & Miles, 2002; Stake, 2000a; Yin, 1994). There are both similarities and differences between the three case studies. Similarities are contextual in the form of the implementation of educational policy and the actual delivery of education, as well as being related to the identification of unsafe student behaviour. Differences exist in peoples’ experiences and in the interpretation of statutory rules and regulations, as well as the specific cultures of the organisations. It is not anticipated that generalisations will be made from this data. However, as expected, patterns do emerge.

A further limitation of this study is the absence of student voices. The primary focus of the research is the manner in which unsafe students are managed within the tertiary education sector and the implications this has for those involved in the management process, and for public safety. The stories of the students have not been listened to or heard, and remain untold so that the different moral voices of students is an area for further research. In this study, others report the consequences of students' failure and being identified as unsafe. The following chapter explores the specific issue of unsafe student behaviour and the process of identifying students as unsafe to practise.

CHAPTER FIVE

UNSAFE BEHAVIOUR AND UNSAFE STUDENTS

The overall purpose of this research is to explore how unsafe students are managed and examine where accountability for public safety is located within nurse education in New Zealand. The way in which public safety has been debated and challenged in nurse education was explored in Chapter Two via the literature search. It is argued in this study that the subject of public safety is particularly emotive, and political, as there is an implied relationship between two parties, one of which is vulnerable to the actions, or omissions, of another. Therefore, there is an issue of responsibility and accountability regarding this situation, and this is frequently perceived as a moral issue. This section of the thesis presents findings from the empirical data to address the three research aims of i) how challenges to public safety have been managed within the tertiary sector, ii) the implications and consequences of challenges to public safety for nursing lecturers, students and education providers, and iii) the factors which constrain or facilitate the management of challenges to public safety in nurse education (see Appendix 1). Each of the three case studies undertaken provides a specific context in which the management of unsafe students took place. Each case study is, therefore, presented as a separate chapter. A final chapter draws themes together, and examines moral dilemmas and accountability using a philosophical and theoretical analysis.

Presentation of Findings

The use of case study, and the methodology as described in Chapter Four, enabled those people interviewed to tell of their experiences and thoughts of the management processes involving unsafe students. The accounts revealed several themes and issues including the presence of moral voices, moral agency, the search for the right answer and the truth, as well as confusion regarding moral dilemmas, and contradictions inherent in the decision-making process. Each case study emphasises different aspects of the management process and is unique. In addition, there are points of similarity, as would be expected given the topic, the context and the methodology. In her research Gilligan emphasises the need for women to tell their stories, to be listened to, and heard,

in order that their different moral voices can be made visible. In this thesis it has been particularly important to have the individual voices of the participants listened to, so that their different voices, and the moral languages that they use, and which construct their various subjectivities, can be heard. To achieve this, participants' own words have been used, as much as possible. This approach ensures both responsiveness and responsibility as discussed by Code (1992).

For the purposes of discussion and analysis in this thesis the management of each case, the context in which this took place, and the process of decision-making involved, are examined using the works of Gilligan, Friedman, Hekman and Lyotard. In particular, different moral voices, moral selves and moral language games are the foci of the analysis and discussion. The initial discussion on safety, presented in this chapter, is discrete inasmuch as it sets the scene for the ensuing management processes and decision-making issues in each case study.

In this chapter, the three educational organisations, and the schools of nursing in which each of the three cases was located, are introduced. A synopsis of the management of the student is provided. The way in which each student is defined as unsafe, or not, by each organisation underpins many of the dilemmas that are elaborated on in later chapters. This chapter specifically addresses unsafeness, and unsafe student behaviour, as described within each case. The final section of this chapter looks at the discourse of safety found in nurse education.

The data are presented here in accordance with the Publication Manual of the American Psychological Association (5th edition) style guidelines. The following legend provides further clarification regarding the acronyms used:

HOS	head of school
Ex-HOS	ex-head of school
HON	head of nursing
PL	programme leader
3 rd YC	third-year co-ordinator
3 rd YL	third-year lecturer
2 nd YL	second-year lecturer
1 st YL	first-year lecturer
NCNZ CEO	Nursing Council of New Zealand Chief Executive Officer
NZNO Adviser	New Zealand Nurses Organisation Professional Adviser

Outline of Three Educational Organisations

In this thesis information regarding the students, participants and organisations is provided so as to ensure anonymity and confidentiality. As such, only organisational information directly pertinent to each case study is provided. The three organisations (A, B and C) chosen for the case studies comprised large, medium, and small educational institutions situated respectively in large, medium and small cities across New Zealand. All three schools of nursing were well established, with students successfully graduating from degree programmes annually. A New Zealand tertiary education qualification authority had approved each institution. The three schools of nursing were all approved by the NCNZ for providing undergraduate nursing programmes. Each of the schools of nursing was situated in faculties with other health sciences, or related academic disciplines. The small and medium-sized institutions had academic and administrative structures and processes whereby responsibilities for decision-making were vested within individual roles, such as the head of school, the dean and the Chief Executive Officer. The largest institution had adopted an organisational structure whereby decisions were made by committees and panels, and not necessarily by individuals in particular roles.

Each of the three institutions had different nomenclature for the roles and responsibilities of those involved in teaching and management. In this study these roles have been customised according to the various responsibilities that each named role possessed. For example the registrars had advisory roles regarding the educational statutes, such as the interpretation and implementation of academic rules and regulations, and the legal and judicial work of the organisations. The school in Case A incorporated disciplines other than nursing and so there was both a head of school, who was a registered nurse, and a head of nursing.

Three Case Studies

A brief synopsis of each case is provided below. These contain the key elements of the management of unsafe students, as reported by participants.

Case A - The Management of the Student

This case concerned the management of a mature-age, female, third-year student who was considered to not be fit and proper and of good character for signing-off by the designated authority for the NCNZ State examination. Although this student was identified as only being potentially unsafe, the research participants in the school of nursing chose this case because they considered that it raised significant moral and professional issues, including that of safety. Specifically, the student had committed a fraudulent act twice, in her capacity as a nursing student, raising concerns about her integrity and trustworthiness.

Following receipt of information, from a reliable source, the student was withdrawn from the clinical environment. The situation was then managed using the organisations' systems, processes and committee structure, as set out in the organisational statute. The student was asked to attend a meeting with the nursing management team where she admitted to having committed the fraud. The programme leader suspended the student from the nursing programme, pending an investigation. The head of nursing undertook the investigation and presented the case to the nursing programme committee. The programme committee was comprised of academic staff from the school of nursing, all of whom were registered nurses. The programme committee invited the student to present her case in person, which she did. After consideration of all the information, the committee voted to exclude the student from the programme. This decision was not unanimous; opinion was divided. The programme committee members were aware that this decision was not necessarily final as the student had recourse to apply for re-admission to the programme via the faculty academic committee.

The student applied for re-admission six months after her exclusion. The faculty academic committee included representatives of each of the faculty academic disciplines, the majority of whom were from other health professions, or related, disciplines. The faculty academic committee was in receipt of a letter written by the student's psychologist in support of her returning to the programme, but the student did not attend in person. The programme leader, as chair of the programme committee, proposed a motion to re-instate the student. This motion was carried unanimously with one abstention from the head of nursing. The student recommenced her studies and went on to successfully complete her degree in nursing. The head of nursing had the delegated authority to sign student applications for the NCNZ State examinations leading to registration. In this case the head of nursing refused to sign the declaration that the student was fit and proper and of good character for the nursing profession. An explanatory report was submitted to the NCNZ, with the student's application. The student was able to appeal this decision with the NCNZ direct, which she did, and was subsequently permitted to sit the State examination. The student successfully completed this and registered as a nurse.

Case B – The Management of the Student

This case concerned a mature-age, male student in his third year who was identified as being unsafe in the clinical area. The student, on the final clinical placement of the programme, was identified as having difficulties regarding his performance and behaviour. It was noted that he was not meeting the learning outcomes, and specific learning needs were identified. However, he withdrew from the module prior to completion and so this was recorded as a 'withdrawal' on his student record. The policy of the school of nursing was that any student identified as having problems around performance, and repeating a clinical course, would do so on probation. In this case, the terms of probation were drawn up by the year co-ordinator and discussed and agreed with the student and the head of school.

A clinical placement was selected to suit the student and his specific learning needs. The student voluntarily made the nurse in charge, and his support staff, aware of the terms of his probation. By the second week of the placement the student's behaviour and performance were causing concern and the third-year co-ordinator was asked by the ward staff to come in and assess the student. She did this and provided the student with feedback, and clearly stated objectives. By the end of the third week the clinical area advised they could no longer supervise the student as they considered he was unsafe, and they requested that he be removed from the placement.

The student met with the head of school and the third-year co-ordinator to discuss the situation. He did not accept the assessment of his practice, or that there were safety concerns, and he indicated he wished to return to the clinical placement. The head of school ascertained there was sufficient evidence, correctly documented, to support the concerns regarding the student's performance and that due process had been followed. She then made the decision to suspend the student for five days and informed him that she would be making a recommendation to the Chief Executive Officer (CEO) that his enrolment be cancelled.

The head of school informed the dean and the CEO of her action and duly sent all the documentation, and request for extension of the suspension and cancellation of enrolment of the student, to the CEO. The CEO extended the suspension for twenty-one days and wrote to the student explaining that the head of school believed that he constituted a significant safety risk to patients, and provided him with an opportunity to make a submission either in person or in writing. The student responded with a detailed and lengthy written reply to the case made against him. The CEO then asked the dean to undertake an investigation and to hear the student's case and determine it. The dean met with the registrar and the third-year co-ordinator to ascertain due process had been followed. The dean then undertook interviews with the clinical staff who fully corroborated the evidence submitted by the school of nursing. The dean then wrote a report to the CEO who, on the strength of the report, chose to confirm the cancellation of the student's enrolment. The student was informed that he could appeal the decision via the chair of the institutions' council. The student did not respond or communicate until two months later when he wrote to the student advocate to say he wished to appeal the decision. The registrar replied via the student advocate that the time period for appeal had elapsed. The student was not heard from again.

Case C – The Management of the Student

This case concerned a mature-age, female student entering her final year of the nursing programme. She had been on the course for five years as she had failed, and re-enrolled, on several theoretical and clinical practice modules over the years. She had also appealed decisions on more than one occasion, and some had been upheld. The student failed the first clinical placement of the programme's third year. She appealed this decision. The head of school heard the appeal, and upheld it, as she considered the evidence was not substantive and relied on past behaviour patterns, and performance noted from previous years. The policy of the organisation was that students commence each year with a clean slate. The head of school arranged to have the student re-assessed using an outside agency to ensure objectivity and fairness. The student returned to the clinical environment for two weeks and successfully achieved a pass in the module.

The student then entered the final seven-week clinical placement which took place prior to her sitting the NCNZ State examinations. In the third week of the placement the clinical area contacted the school asking that the student be removed as they considered her to be a threat to public safety and had received a complaint from a client. The third-year coordinator requested that the clinical staff document the unsafe and inappropriate behaviour in detail. In the meantime, the student was withdrawn from the placement, as requested.

The head of school organised a meeting with the student and her support person, a New Zealand Nurses Organisation (NZNO) representative, but the student failed to attend. However, before the head of school was able to discuss the situation with the student in person, the clinical area retracted their reports and documentation explaining that they wanted the placement to be perceived by students as a positive experience. The head of school, however, considered there was sufficient evidence overall to refuse to sign the student off as fit and proper and of good character for the upcoming NCNZ State examination. In addition, the student had not completed the clinical hours normally required by the NCNZ prior to sitting the examination.

The head of school informed the student that she would arrange for another seven-week clinical placement so that she would then be able to sit the next available State examination. However, when the head of school contacted the clinical area for a placement, she was asked to attend a meeting with representatives from the local District Health Board (DHB). At this meeting the head of school was informed that the DHB were not prepared to provide further clinical experience for this student given their previous experiences with her. This statement was placed in writing.

Following this decision, the head of school considered that the school did not have the resources to negotiate another clinical experience for the student with an alternative DHB or health care provider. The head of school was also not prepared to request from the NCNZ an extension of the statutory time limit for completion of a nursing programme, sometimes granted in exceptional circumstances, for the student to obtain the required clinical hours for registration. The student did not complete the nursing programme.

The synopses highlight several issues including decision-making, relationships with clinical agencies, and the structures and processes at work within each educational organisation. Case B seems particularly straightforward, but, as will be seen, tensions existed beneath the apparent objective reporting of facts and events. Tensions are immediately evident in Case A regarding the consequences of student behaviour and, in Case C, in obtaining evidence to make the case of student failure. The following section explores in more detail how students came to be defined as unsafe, and the issues that were raised by this.

Unsafe Behaviour

As found in the literature review, clear definitions of what constitutes unsafe behaviour are hard to find (Scanlan et al., 2001). The NCNZ Code of Conduct (1999) provides guidelines and principles for safe practice and gives examples of the type of behaviour that might provide the basis for a complaint regarding a nurse's conduct. No specific definitions of unsafe behaviour are attempted. In the preliminary stages of this research, my academic colleagues were constantly debating the issue of what constituted unsafeness, and who had the authority to assert this. Specifically, any description of student performance, or behaviour, considered by some to be typically unsafe, was immediately re-litigated by others who might then agree, or disagree, with that evaluation. A major emphasis in the current study concerns moral dilemmas that arise in situations with students deemed by some to be unsafe. However, the debate regarding what actually is, or is not, unsafe behaviour, although interesting enough in itself, merely serves to distract attention away from the philosophical and ethical issues that are the focus of this study. The debate does, however, highlight the somewhat slippery concept of unsafeness, as well as the apparent need for certainty and consensus, the need to 'get it right' and to find the 'truth' of the matter.

In this study the participants were asked to describe the behaviour or performance that led them to consider students to be potentially, or actually, unsafe. As such, these descriptions provided an idea of what constituted unsafe behaviour for these specific cases, in these particular contexts and circumstances. Not all participants agreed with

each other's deliberations, or the consequences of these, and this was demonstrated in the management of the cases.

No generalisations can be made, therefore, regarding unsafeness. However, it was possible to see patterns emerge from the accounts regarding certain aspects, or types, of student behaviour, as found by Scanlan et al. (2001). Care has been taken in the quotes from transcripts not to reveal details that might identify specific students. However, given the cluster of behaviours identified with unsafe students, readers may undergo the phenomenon of vicarious experience (Stake, 2000a), or a shock of recognition (Adelman et al., 1980), discussed in Chapter Four.

Unsafe Students

In Case A the student was not found to be clinically unsafe. Quite the reverse, she was reported as being “a good student in clinical,” having a “great manner with patients,” as well as being supportive and kind to her fellow students. However, she had committed a fraudulent act, not once, but twice, having been caught in the act on the second occasion. According to all members of the nursing management team, there was no doubt that this behaviour had been deliberate and pre-meditated. As such, the student in Case A presented a specifically moral problem for those involved in managing the situation. The issue was then raised as to whether the student was fit and proper and of good character for the nursing profession. The third-year co-ordinator provided a description of how the student's behaviour created doubts for her about the student's integrity, and whether she could be trusted in the future:

My biggest concern was that she had done this and that I could not be convinced that she wouldn't do that again. And that as a registered nurse she would have far greater access and the ability to - in fact - to repeat the offence. ... And I just think to myself - that remains my biggest concern - that she will do this again. But she may never. But it puts that doubt there. It puts that doubt. Yeah and maybe that's very, very unfair, but that doubt is there for me, and that's my concern. (Case A: 3rd YC)

Immediately, it can be seen that the actions of the student raised specifically moral issues for the third-year co-ordinator. These issues related to the student's trustworthiness and personal integrity, both of which were essential for safe nursing

practice, as noted by Judge Speight (Burgess, 2002). The third-year co-ordinator appeared anxious to maintain her own integrity, partly as a response to her feelings of doubt, even though this may seem “very unfair.” The scene was thus set for a moral dilemma as identified by Gilligan (1982). The head of school articulated how the student’s transgression translated into a potential threat to public safety:

And I think if I had to identify the risk, the public risk, [it] is that you have a student there that doesn’t see that there’s anything wrong in committing this sort of fraudulent activity which is criminal in intent and ... if you do it for yourself why wouldn’t you do it for a friend or do it for a client or ... where’s that all going? (Case A: HOS)

Here, the head of school perceived a moral problem was created by the student’s lack of moral values and inability to self-reflect. Again, the issue of trust is raised; the consequence of the student’s actions results in her becoming a potential risk to the public. In Case A, the members of the nursing management team had different perceptions of the student’s feelings of remorse and regret. In her interview, the head of school made the point that the student was in the third year of the programme and was well aware of codes of conduct and the expected behaviour of a nurse. The third-year co-ordinator questioned whether the student’s only regret was getting caught, although she did qualify this:

And another thing which I kept thinking about was... you know it’s one thing to think about maybe doing something like that, quite another thing to do it. And, I wonder, if she hadn’t been caught would we ever have known? And that’s the thing that probably concerned me the most. Was it so traumatic for her because she’d been caught? And if she hadn’t been caught ... would any of us have ever been any the wiser? And that to me - or for me - is still quite a problem. Still quite a problem. ’Cos I think gee, she got caught, that was the problem. ...But that’s rather unfair also. Because it’s all conjecture. Because we don’t know. We don’t know whether her guilt would have prevailed and she would have told us at some point. But the fact of the matter was she didn’t. And we didn’t know. (Case A: 3rd YC)

The third-year co-ordinator, unlike the head of school, considered that the student might have feelings of guilt, but clearly not enough to confess before being caught. Instead, the act of being caught, rather than the fraudulent act, may have been the student’s main concern. There is an interesting example in this excerpt of the difference between a hypothetical act and an actual event. The third-year co-ordinator can be seen as

‘fighting the hypo’, that is, resisting the hypothesising of the situation and abstracting it which will then lead to the ‘right’ answer (Menkel-Meadow 1985, p. 46, as cited in Hekman, 1999b, p.106). As such, the third-year co-ordinator resisted the justice and rights discourse and remained speculative “because we don’t know.”

The programme leader and first-year lecturer described the student as being contrite, ashamed and full of remorse for having let people down. Importantly though, they did not report that the student felt regret or remorse for the fraudulent act. According to the head of nursing the student remained unrepentant because she did not consider that her deed was wrong.

The head of nursing described how he had struggled with the decision as to whether to sign-off the student as fit and proper and of good character for the purpose of NCNZ registration. In the final analysis he decided not to sign that the student was, or was not, fit and proper, by not signing the form at all. In doing this, the head of nursing knew that the application would be flagged by the NCNZ as an issue requiring investigation. In effect, he passed the responsibility for signing-off the student back to the NCNZ. When asked if he would have done anything differently in hindsight he replied:

I would have voted [at the faculty academic committee meeting] to say that she wasn’t fit and proper. I would have voted to not have her back. I would also clearly write down in a letter to Nursing Council that I don’t believe this person is fit and proper for the following reasons and I would not sit on the fence. ... I come to that now because I take that as my responsibility as a nurse, and as a professional, and I sit there and I think ... the expectation on public safety that all professionals, health professionals, must hold - the primary part of this is about public safety. ... And I also think now ... stuff the educational system, this is about people’s lives and the bottom line is people have terrible lives, but this person has demonstrated that they [commit fraud], and they don’t think clearly. They bring the profession into disrepute – yeah, I just think it’s terrible. (Case A: HON).

This statement by the head of nursing could be considered somewhat disingenuous as he was aware that by not signing-off the student he was not, in fact, sitting on the fence. However, it could be argued that had he cast a vote on the committee, and written a letter to the NCNZ, his moral dilemma would have been made visible. As it was his actions were responsible in that they fulfilled the requirement to protect the public, but his moral dilemma was silenced and rendered invisible. Hekman (1995) emphasises the

importance of our actions, what we do and what we know, in the construction of our moral selves. Here the head of nursing located himself within the discourse of professional nursing and then used the rules of this language game to legitimate his actions, albeit in hindsight.

Case A raised questions about being fit and proper and of good character which, in turn, raised tensions for the individuals involved as they did not all agree on what this actually meant. It was clear that, even though some of the participants considered the acts of lying and deception to be unacceptable, these criteria, or principles, were unable to help in ascertaining the truth of the matter, or the right thing to do (Friedman, 1993). Public safety and professionalism were other factors called upon to justify actions taken. However, there was no consensus regarding the reasoning concerning the moral issues, or moral dilemmas, being faced by the decision-makers. In this thesis decision-making is explored in greater detail within the chapters on each case study.

In Case B, the third-year co-ordinator provided a very clear description of the behaviour that led to the student being considered unsafe. The following example involved the student's failure to attend a planned practical session on the use of the emergency trolley because "he knew it all." This session had specifically been targeted for third-year students approaching nurse registration:

And so we had all those things [teaching sessions] programmed in to do and this guy was missing! Everybody else was there, so it wasn't a matter of not knowing, because obviously the stuff had been disseminated and everybody else was there. So he wasn't. I had my mobile phone with me - no call - you know - like to say he's sick or anything. So it was really weird. So I went up to the ward and there he was! And he said he'd just gone straight onto the ward and within half an hour he'd gone down to recovery to pick somebody up - he'd done all sorts of wonderful things! ... So, anyway, he was the first and only student I've ever put on progress notes on day one. You know this isn't okay. And he just figures that he knew it all so he didn't need to come to any sessions that I was running. (Case B: 3rd YC)

Here the student is presented as over-confident and under the misapprehension that he knows it all. There is no moral dilemma as such, but the student's behaviour appears to be unreliable, and impolite. Two further examples provided by the third-year co-ordinator involved this student's actual clinical practice, as a third-year, and his

knowledge and understanding of clinical conditions. The first example demonstrated a problem regarding the student's attitude:

And so he was missing things. And one of the things I was on his case about was somebody he was working with had orthostatic hypotension and so I was saying to him, "When are you going to assess this? After you get her up and she faints? Isn't it better to know this beforehand so you don't get her up and she faints?" But he never quite actually agreed with me on that one. (Case B: 3rd YC)

Difficulties in failing students because of their inappropriate attitudes and behaviour is reported in the literature (Duffy, 2004a; Duke, 1996; Lankshear, 1990; Mahara, 1998) and emphasises the absence of this criteria in assessment documentation. In Case B, the student was presented as not only resistant to the learning opportunities, but also unable to learn because he was "missing things." The third-year co-ordinator expressed frustration and indignation in her interview and highlighted the danger created by the student in her use of sarcasm. She described how over-confidence could lead to unsafe clinical situations as well as inconsiderate nursing care:

It starts with this self-belief that he knew the answers and knew best how to work. There was lots of other unsafe behaviours, and potential of serious injury to clients. And one of the incidents that is documented ... one that I saw ... like this person with the liver biopsy, his temperature was very low, it was a cold day and he'd come in, and it was really low. And he [the student] didn't correct it, you know, he didn't give him a cuddly or anything. I mean *I did* - but he, the student, didn't - he didn't respond. And his response, when I asked, was, "Oh, he's a fit guy. He's fine." And it's like, when everything says that if you have the person warm before you go to theatre everything is better ... the recovery rate's better, the outcome is better. So why would you just think that they could be cold, on a cold morning? And the chap was also diabetic and the student went to do the blood sugar levels and I said, "Maybe the person would like to do it themselves?" And the patient says, "Yep." And the student goes ahead and does it. (Case B: 3rd YC)

The third-year co-ordinator demonstrated how she tried to provide the student with several learning opportunities, creating possibilities for success (Rittman & Osburn, 1995). However, her frustration seemed to mount as the student remained unresponsive and contradictory. The clinical placement for this student had been organised for his specific learning needs on the second attempt of a third-year paper. The placement had an excellent reputation for supporting students and was a good learning environment.

The third-year co-ordinator described the arrangement as a “win-win situation” as the student had every opportunity to learn, but was also closely monitored regarding patient safety. However, the student’s behaviour was described as follows:

And so he was on contract with the buddy that he would work her shifts. That was absolute. There was no room to manoeuvre. He manoeuvred. And he just - he started doing things like coming on at the wrong hours. ... He started dodging because he couldn’t actually leave this time. Like the first time when the pressure went on he just left, he withdrew. The second time he couldn’t, so he started doing other things - and if you - and then, when that pressure went on, he just wasn’t there. He just didn’t turn up ... and he was not on with his regular buddy - this was another day that he’d turned up - and somebody had just said, “yes, okay you can work with me” - not knowing all the stuff that was going on behind. And just being a nice friendly person. So she wasn’t watching as closely. So then we had patient safety totally compromised, and the charge nurse basically said, “This is not okay. Not okay. We’ve got somebody here who is doing these things.” (Case B: 3rd YC)

The descriptions of the student behaviour in Case B bear a striking resemblance to that found in the *Malster vs Manakau Polytechnic* judicial review (see Chapter Two). Although the third-year co-ordinator attempted to fulfil her obligations as a teacher in good faith, demonstrating the caring practice of teachers (Rittman & Osburn, 1995), the relationship with the student did not appear to be based on mutual respect. Instead there was a degree of antagonism and distrust.

In Case B, unsafe behaviour was also reported as frequently being a set of repeated behaviours over time, but manifested inconsistently. The head of school, regarding a different third-year student, described an example of this theme of sporadic, unsafe behaviour as follows:

That student was one who had - the most professional term I could use would be ‘engaged in random acts of negligence’. Ninety-five per cent of the time he was fine, but then just something would come out of the blue that was completely inappropriate and unsafe. And it was really difficult because most of the time that student was good, but it happened too frequently at a level that wasn’t okay for a third-year student. ... And you know the final random act was actually not meeting an assignment deadline which, although it sounds pathetic, it actually was consistent with what happened in clinical. So ... while the student knew what day the assignment was due, knew what time the assignment was due, knew the penalty if it wasn’t in on that day, he just didn’t hand it in. He didn’t forget, just didn’t hand it in, just no real reason, he just didn’t get round to handing it in. So that actually meant failing the course, which put him back six

months, which put him outside the timeframe. ... And I'd applied to Nursing Council for an extension, which they'd granted, and then he still couldn't meet it because of his own stupidity of not handing in a piece of work on time. (Case B: HOS)

Clearly this type of behaviour makes it more difficult to track and manage student progress, often resulting in students reaching the final year of study. In this case the student appeared to sabotage his own success having already been given extended time to complete.

In Case C, the student demonstrated consistent and repeated unsafe behaviour. She had given medications without supervision on more than one occasion, even when she had specifically been instructed not to. In addition, the student had a history of communication difficulties, including making abusive telephone calls to clinical staff and to the school of nursing office. The third-year lecturer, who had worked with the student in year one and year three, described her as "a bully." However, the organisational systems, processes and procedures were poor and, together with nurse educators giving "the benefit of the doubt," the student was enabled to progress through the programme to the third-year.

In Case C, the issue of unsafe patterns of behaviour over time was complicated by the clean slate policy for students, aimed primarily at ensuring non-discrimination:

I think that the issue for us is when students show up in year one with some behaviours, and you sort of work with them and you give them the benefit of the doubt, then they're showing up in year two. But it's how do you follow those threads of behaviour. One of the lecturers - before we looked at what we were going to do for the student - had summarised in her notes what all the feedback [had been] around certain things. And the drugs thing had come up before; the communication had come up before. So, like it is that cumulative picture. (Case C: HOS)

However, the head of school upheld the initial student appeal because the evidence produced by nurse educators to make the case was based too much on previous behaviour. The consequences of the clean slate policy, together with giving the benefit of the doubt, are examined in more detail in Chapter Eight.

The student in Case C was considered to be both “highly intelligent,” gaining ‘A’ grades in the theoretical papers, as well as “extremely aggressive.” She was also capable of performing to an acceptable level in clinical practice, for a short period of time. An example of this acceptable performance, following a failure on grounds of safety, was described as follows:

We arranged for her to have special re-assessment, and had to pay someone from outside our institution, from another school of nursing, to ... do a qualitative assessment on her...competencies. ...And then for the next two weeks she was wonderful ... she was the best nurse you could possibly wish to be. Because she was a very intelligent woman. ...And so she passed and she went back into the next paper, which was the last paper of the year. (Case C: 3rd YC)

The third-year lecturer reinforced this view of the student’s performance:

The clinical tutor, who was working with the clinicians, they at that point said that these were the issues that needed to be put right. And again it was the same things, it was around communication, it was around her lack of listening ability, it was her lack of sensitivity towards colleagues and clients, and a client had actually complained about her. I don’t think I’ve ever, ever had a client complain about our students. And we pulled her from clinical immediately. ... Anyway we pulled her from clinical and she’d failed the assessment, the clinical assessment. However, with our student assessment policy it meant that she could have a re-assessment. So she went in for a re-assessment and, she’s a very clever woman, and she’s easily able to hold herself together for a limited period of time, which she did. So she passed the assessment. And this has been her behaviour throughout the programme. (Case C: 3rd YL)

In these descriptions the student is portrayed as a “clever woman,” as able to deliver the required performance for two weeks, and as though this was a deliberate ploy, or act. However, there was some doubt as to whether satisfactory performance could be sustained over time. The final clinical placement provided an opportunity for the student to demonstrate this. The third-year lecturer described the student’s practice as follows:

In her last clinical placementshe was not able to sustain, throughout a seven-week placement, she was completely unable to sustain behaviour that was acceptable. (Case C: 3rd YL)

The head of school also provided details of this final placement:

She then went - the second half of our third year is a major practice paper, like they have a seven-week clinical placement. She showed up there as not fit to practise, doing things like giving medications without being supervised, communication was a big issue. So I got the stuff, we withdrew her based on safety grounds. (Case C: HOS)

Here the student is portrayed as if her previous short burst of acceptable performance was a manipulation and that, over time, her true character would be revealed, almost as though the student was unable to control her real self. In Case C, there is consistency regarding the reports of the student's behaviour and the moral implications of this for the profession of nursing.

The purpose of these descriptions has been to demonstrate what these nurse educators considered to be unsafe student behaviour in these particular situations. In Case A, the student was caught committing the fraudulent act and so the issue was one of how this translated regarding being fit and proper and of good character for the nursing profession. In Case B, the student behaviour was verified by an internal investigation and the clinical agency corroborated the educators' evaluation. The management of the student appeared to be straightforward, with adequate evidence being provided, and due process followed. However, questions were raised regarding the management of students who presented as periodically unsafe, but subsequently managed to progress to the third year of the programme, and then fail. In Case C, a similar question was raised, with the additional issue of the problematic relationship with the clinical agency.

When discussing the behaviour of unsafe students in general, participants used the same phrases and identified the same behaviour traits again and again. These included an inability to reflect, unreliability, an inability to apply knowledge to practice, an inability to transfer knowledge and skills to new contexts, blaming others, or being a victim, being unable or unwilling to take responsibility for their own actions, or the consequences of their actions, and manipulation. This finding complements the list of unsafe clinical behaviours described by Smith et al. (2001), the consensus found in their own faculty by Scanlon et al. (2001), the hallmarks of dangerousness identified by Ritman and Osburn (1995), as well as dangers associated with mental health problems (Manthorpe & Stanley, 1999). The descriptions given here also demonstrate how some

nurse educators experienced doubt and a lack of trust regarding students' intentions, especially in relation to honesty, integrity and reliability.

Lack of Insight

Lack of insight was an issue identified by participants in all three schools of nursing when describing unsafe students (see also Duffy, 2004a; Scanlan et al., 2001). The heads of school from the three different institutions described the lack of insight with other, unacceptable, behaviours as follows:

When you get such a lack of insight by some of them [students] ... about their own accountability in any process, you do feel quite vulnerable at times. We've had some quite wacky people behave very litigiously, have the insight of a gnat, and are quite potentially dangerous. (Case A: HOS)

But it does tend to be the people who lack the insight or who are so absolutely rigid and narrow in their views that they can't in any way critique or reflect on their own role and responsibilities in the scenario. They'll project it out and blame others, blame the fact the tutor wasn't there, blame the clinical agency, blame the patient, whatever. They just fail to take responsibility and that's a real concern when people just lack that insight. (Case B: HOS)

My feelings and thoughts in that meeting was that the biggest problem with this student was that she would not look at herself. There was a lot of blaming of others, there was no reflection on her own roles and responsibilities, and who she was being in the situation. Total lack of insight. So it was everybody else was the problem and I really, there, had really strong feelings that you're not safe because you're not listening, you're not seeing - it's everybody else. You're not taking any responsibility and you're just going and doing you're own thing. You're not a team player. (Case C: HOS)

The students discussed in these three case studies were presented as not demonstrating any of the five caring perspectives identified by Morse et al. (1990). In addition, they did not appear to exhibit moral distress (Nathaniel, 2002) or develop strategies to maintain their moral integrity (Kelly, 1998). One question that is raised here is whether the students were able to care in the fullest moral sense (Pask, 2001) and if so, what effect, if any, this might have had on the assessment of them as suitable nurses. In turn, this begs the question of the way in which caring is, or can be, measured and assessed within any educational discourse and whether this need is in fact part of a nursing

discourse. However, Jaeger (2001) argues that moral sensitivity, indispensable for moral theorising, can be taught. This discussion is closely related to that concerning insight and, interestingly, teaching students' insight, or how to be insightful, was clearly something that was expected by the Chief Executive Officer (CEO) of the NCNZ:

Well, of course, the educator is in a bit of a bind too because you're in the position of actually giving them - if they haven't got any insight - is it because you haven't taught it to them well enough. And of course that's why you're vulnerable in the courts - and you've got the legal risk around that because, if you were giving every student a really fair go, you'd hone in on an area where they're weak and you'd give them extra courses, or lectures, or discussions, or tutorials, or whatever to give them the insight. And it would only be at the end of that long process where, finally, you have to acknowledge that they're not ever going to get it - and then the process you went through to do that could be under challenge. (NCNZ: CEO)

Whether or not it is possible to teach the type of insight required by nurses is not the focus of this study. The issue is important, however, and is raised here as part of the problem in identifying unsafe students. There is much in the NCNZ Chief Executive Officer's statement that is echoed by the nurse educators themselves. This debate also helps to demonstrate some of the tensions and issues inherent in the educational process, and that are specifically relevant when attempting to manage the unsafe student. However, even when a student appears to have insight this does not necessarily mean that they behave in acceptable ways. This situation was highlighted in Case A where the consensus appeared to be that the student did indeed have insight, but she did not connect her behaviour to her role as a trustworthy nurse. Her behaviour, and her seeming lack of remorse for her actions after being caught, then raised moral problems, certainly in relation to being fit and proper and of good character for nursing. The head of school explained the response from the clinical area where the incident took place, and how the student's actions raised complex issues:

Actually they didn't hold us accountable at all. They said, "There's no way you could have managed that. Your supervision, your processes around supervision, all those things were fine. She was actually a good student here. There's no way that you are responsible for her disposition or mental angst or whatever that caused her to do this..." Like one of the things we established at programme committee with her, at the time of investigation, was, did she know at the time she was committing a [fraudulent] act? And she said, "Yes. I did." So it wasn't that she didn't know. She knew. And I said, "Have you had this in classes before? Have you had these scenarios talked through? And what was...?" And

she said, “Yes we’ve had this in class.” She was absolutely aware of what she was doing. ... So it wasn’t one of those cases where they have no insight. (Case A: HOS)

This discussion of insight reflects many of the problems identified in the literature review regarding moral agency and whether student nurses already have the wherewithal for making moral and ethical decisions, and are not morally ignorant (Hunt, 1994c), or are the products of widespread sociopathy (Hunt, 1997b). In turn, the question is then raised as to whether these students described in the case studies had the capacity for developing ethical comportment, and engaged moral reasoning, in order to become embodied caregivers (Benner et al., 1996).

The Bottom Line and Gut Feelings

The fact that safety, and unsafe practice, was difficult to define accurately was reflected by many in what could be described as a ‘bottom line’ exercise. Here participants posed hypothetical situations asking whether you would want the student under question to be nursing a family member, your mother for example. When in doubt many used a litmus test to evaluate their professional opinion:

Well for me, I guess for me from the day that I started working with undergrad students, the bottom line has been “Would I want my nearest and dearest to be cared for by that person?” (Case A: HOS)

So when you can say, you can actually say to people in clinical, “Would you be happy in one month’s time - the student’s only got three weeks to go – would you be happy for them to walk through the door of your unit as a registered nurse?” and they go, “Oh no!” you know there’s something horribly wrong. (Case B: HOS).

Always being aware of the fact that the people that you’re working with are going to be looking after perhaps your mother. If I thought somebody was going to be looking after my mother - that’s a bit of a standard for me...so I guess it’s that. (Case C: 2nd YL)

You know the old acid test that nursing managers use... would I be happy with this student nursing me? There are a few students who - I wouldn’t - I’d prefer that they didn’t. But if push comes to shove I’m sure they’d be safe. (Case C: 3rd YC)

The NCNZ CEO placed herself in the position of the registered nurse failing to report the unsafe student, rather than the educator, but articulated a similar bottom line:

For example if my mother was on that ward, would I be happy for the student to be looking after her without supervision, is quite a good little benchmark. You know, what am I going to feel like if the patient dies or something awful happens to a patient as a result of the student being there when I [registered nurse] haven't told the school, am I going to feel responsibility? I mean, as Registrar of Council, those are the sorts of things I ask myself that lead me to making ethical decisions. (NCNZ: CEO)

The discussion of the bottom line echoes the partiality arguments put forward by Friedman (1993). The participants here used hypothetical scenarios in order to assist in their moral reasoning and decision-making. In three examples a “mother” was proposed as the recipient of possible unsafe nursing care. In using this hypothetical example the situation shifted from an unknown patient, who was a stranger, to the realm of the personal, a (close) family relative. The situation then became even more personal, with “you” being nursed by the unsafe student. The “you” scenario was then further extended with “you” being the registered nurse, having to work alongside the newly qualified, but unsafe, nurse. Finally, in the CEO scenario, there was an added twist of “you,” as the registered nurse, having to account for not reporting the student as being unsafe, with disastrous consequences.

There appears to be, in these descriptions of hypothetical scenarios, an increasing sense of accountability and responsibility as the specific context in which they are set changes. The scenarios have many parallels with Friedman’s re-told Heinz dilemma and the way in which the abstract problem becomes more personal, and more problematic. The participants appear to unconsciously use partiality to reach decisions that will withstand scrutiny in the moral, but rational, world of education. Importantly, the bottom line did not appear to reflect any application of universal principles of moral theory, but seemed, rather, to use an argument whereby partiality provided the means by which to ascertain a minimum, but safe, nursing standard.

The difficulties in defining safe and unsafe clinical practice were discussed in the literature review in Chapter Two. The findings in this research do not facilitate the identification of any clear parameters about safety, but, instead, demonstrate how

subjective, and somewhat messy, this whole area remains. These descriptions support the findings of those studies that highlight the subjective element within clinical assessment (Boley & Whitney, 2003; Smith et al., 2001). Although some nurse educators in Case B and Case C were able to describe what they considered to be unsafe behaviour others also took into consideration their 'gut feeling' and intuition especially, it would appear, in the clinical context:

So yeah, it's working with the people in clinical. We run seminars with them now, like clinical teaching seminars, and say to them "Trust your gut. If you've got a concern, the tutor might not be there, but they're only just a phone call away. Just run it past us, we don't mind, that's what our job is." And we're sort of really trying to get that message out of 'trust your gut'. And that's what we all say. If you feel that something's not right, trust it. (Case B: HOS)

So in the situation that I'm describing one of the tutors ... would start the conversation with "I don't know what's going on here, but my gut tells me." You know, that would come into their conversation "my gut tells me that"...sometimes translating what their gut was telling them into the assessment processes, or finding the language, sometimes that is really difficult to do in clinical, particularly in the application to clinical practice. Because, there's a part of me that says there's something in clinical practice - there's something in good clinical practice that you can see it when it's there, but it's really hard to describe in the abstract. And so, what I think we all struggle with really is, how do you put into measurable terms something that at the end of the day is a professional judgment. (Case C: ex HOS)

This approach appears to embrace the view of Benner et al. that, in nursing, "one needs a kind of intuition that can never be captured by rational theory" (1996, p.30). In addition, the gut feeling that Benner (1984) describes as a feature of the expert clinical nurse's practice seems to have been translated here into a criterion for assessment of student performance and evaluation of their nursing care. However, Evans notes that when decisions are based on academic judgments, reasons for them ought to be *able* to be given, even if they do not *have* to be given (1999, p.182). The question as to whether there is a duty to give reasons or not is contentious and, according to Evans, needs to be driven by clear principles rather than contextually determined. Arnal and Burwood (2003) argue that in the current quality assurance culture of tertiary education it is no longer acceptable to just be able to give reasons for decisions. It is now necessary to state and publish criteria and rationales as a means of securing transparency and accountability. They go on to argue, though, that it is not possible to

codify all knowledge and that there are very real limits to how far “tacit practices,” such as assessing and evaluating, can be articulated and made explicit in this way (Arnal & Burwood, 2003, p.380). In this study it is argued that conflicting academic judgments result from conflicting and incompatible discourses and so principles, such as fairness, are unable to mediate between them.

In the research here, it was not only within the clinical context or with nurse educators that ‘trust your gut’ was found:

How do you equate cheating in an academic environment with covering up the fact that you did something wrong in the ward environment, and possibly causing somebody to die as a consequence? You know ... how many easy little steps are there between one and the other. So, there’s all those things, none of which are quantifiable, none of which are of themselves ... you can’t pull one thing out and say, “This is what I judge it on. This is my litmus paper.” You can’t. So every time you are basically arriving at an answer which, although I wouldn’t admit it in a court environment, and I wouldn’t admit it to a student either, I arrive at my answers by gut feeling. I then go and consult the registrar to make sure I’m being consistent. (Case B: Dean)

Like the ex-head of school in Case C, the dean highlighted the difficulties of measuring, or quantifying, the “little steps” and, in doing so, raises the question of the relative importance of these within the different contexts of academia and health care. The dean did not have a bottom line as his litmus test, some abstract principle or personal scenario, which he could apply in all situations. Instead he assessed each case as it arose in context, assisted by his gut feeling, and then built in external checks on this assessment with an awareness that his own, informal, process was something he would not wish to share with lawyers or students.

It is not known in Case B how the registrar might have responded to the dean in the above scenario. However, the registrar in Case A was very clear how she would proceed with a failing student, if this was her responsibility:

If the assessment is, ‘Are you practising safely?’ whatever that might mean, then presumably there are criteria against which to match it. Now if you’re matching it against the criteria, and there are shortcomings, then simply you’re carrying out an assessment function, but you’re not making an overall global statement of propriety. You’re simply saying that when they do something they don’t do it in a way that is proper, or meets the assessment criteria, and therefore

go away and try again, and try again, and try again, or whatever, and however many times you've got, to the extent that you can improve. And if you can't, well - you know - hey, you're not going to make the grade as far as we're concerned. We're not going to pass you our qualification. (Case A: Registrar)

The registrar in Case A was anxious to point out in her interview that she was speaking hypothetically and that she did not have first-hand experience of either teaching or assessing students. However, this extract begins to show how different perspectives result in different ways of perceiving situations, albeit hypothetical ones. There is little room for doubt or prevarication in this registrar's account, which then raises the question as to why others have to resort to gut feelings and intuition. This finding begins to hint at the different voices identified by Gilligan (1982) and is one of the issues explored in each case study.

Moral Voices

It is clear from the interview extracts that the positivist discourse dominated regarding quantifying and measuring the behaviour, the risk, and the unsafeness, in order to fulfil the requirements of the educational processes. The need for so-called objective evidence is also demonstrated in the work of Duke (1996) and Mahara (1998). However, there are no definitive criteria for measuring unsafeness found in the literature or in this study, even though there is a need to make an assessment about these (McSherry & Marland, 1999; Scanlan et al., 2001). Nurse educators, and some non-nurse managers, further complicated this ambiguous situation by accentuating a reliance on their gut feelings, and intuition, while denying the validity of these for the purposes of formal assessment and evaluation. In the end personal relationships, as the bottom line, and gut feelings and intuition, so inimical to the positivist paradigm, are resorted to, and trusted. These different ways of viewing the world are explored in more depth in each case study.

Gilligan's (1982) voice of care and responsibility highlights caring, and responsibility for others and the self. The descriptions of the unsafe students in the three case studies presented here emphasised that the students did not exercise responsibility for others, or themselves. The reports of student behaviour appeared to demonstrate a distinct lack of care, or caring, as the foundation for nursing (Benner & Wrubel, 1989; Leininger, 1984;

Watson, 1985). In all three case studies the students were presented as lacking emotions and feelings, associated with caring and taking responsibility and, therefore, according to Pask (2001), it could be argued that they did not have the capacity for moral imagination, and so would be unable to care in the fullest moral sense. The nurse educators in this study perceived nursing to be a moral endeavour and an ethical enterprise, as described by Seedhouse (2000). This expectation was clearly challenged when students did not demonstrate this behaviour, and was possibly exacerbated by their perceived lack of insight.

In all three case studies, students were presented as not exhibiting Gilligan's care voice; there appeared to be an absence of connectedness and relationship between themselves, their teachers and their patients. In Case B and Case C, nurse educators portrayed students as lacking intimacy, and as being separate and detached. These perceptions may underpin some of the fears voiced by nurse educators operating within a care discourse, as found by women in Gilligan's research (1982, p. 22). In Case A, the student was reported as having positive relationships with her peers, but she had lied and deceived her teachers. Using Gilligan's analogy of the trapeze artists, in these case studies safety nets were required because the breakdown of relationships between students and patients, and students and nurse educators, led to a lack of trust.

The students themselves were not interviewed in this study and so it is not possible to draw any conclusions regarding their unheard moral voices. The actual situation might well have been that the students had expectations of their educational experience such as those found by Poorman et al. (2002), for example that lecturers would get to know them and would care about them. There is a need to provide an opportunity for student voices to be heard, and this forms the basis of one of the recommendations emanating from this research.

Moral Selves and Moral Language Games

Gilligan argues that moral voices and moral selves cannot be neatly separated. Hekman builds on this thesis as the central element connecting morality and subjectivity. Hekman explores the relationship between subjectivity and moral voices, arguing that

becoming a subject and developing a moral voice are inseparable. Hekman emphasises action; what a person does, and how they behave, reflects what they believe.

According to Hekman different moral discourses define different kinds of moral agencies, “discourses script agencies differently, but in all cases agency is a discourse resource” (1995, p.111). In the nurse educators’ descriptions of student behaviour, the students are attributed moral agency and are presented as capable of exercising choice, and of being rational and responsible for their actions. However, when they appear not to practise appropriate moral behaviour and fail to deliver on these expectations, nurse educators judge them as unsafe. These judgments reflect the discourses of the nurse educators themselves; when nurse educators make moral judgments about students they are necessarily asserting their truths. Lyotard and Thèbaud argue that those who judge are ‘in the same sphere of language’ as the recipients of their judgments. They argue that the moves in the language games of justice are always tactical and contextual. Those making judgments are also subject to being judged within the rules of that specific language game. Just persons are made by their actions, by their judgments. So in judging the student nurse, educators and education administrators are acting within the rules of the language games they play, and are also constituted as moral subjects by these language games. The way in which nurse educators and education managers are constructed as discursive subjects is examined in more detail in each of the case studies. In this chapter, however, the dominant discourse, or language game, is that of ‘the discourse of safety’.

The Discourse of Safety

In the course of collecting the data for this study one participant referred repeatedly to the ‘discourse of safety’ and how she felt that the ‘safety issue’ had become a concept that was being used and abused:

Nurse educators have a particular discourse, I think, around safety. I mean the most extraordinary things are claimed in the name of safety - whether or not students should be allowed to knit in class - whether they should be able to eat in class. I mean, just extraordinary things really. If you challenge - you know - it is a fairly thin ice some people are skating on. (Case C: ex HOS)

This chapter has demonstrated that there is indeed a discourse of safety. The Nurses Act (1977) sets the scene for this with the remit of the protection of the public, and the duty of every registered nurse to implement this through safe practice. However, the focus here is on safety in the educational context, and the way in which safety, as a discourse, can be used to legitimate student behaviour as safe, or unsafe. For example:

Yes, I mean I think probably some more realistic examples of where safety is used is - say you have the discussion that timeliness and punctuality and reliability are important aspects of nurses roles. They have to understand the importance of time and timeliness. And then I have tutors who would say that a student coming in late to class is an example of unsafe practice. ... And that's student behaviour in an educational environment. And I don't think you can necessarily extrapolate how they are as a student in this [education] environment as to how they might be in their practice. Bring me an example of un-timeliness in the clinical. (Case C: ex HOS)

The discourse of safety is available to all, but I would argue not in the same way as it is available to registered nurses and, therefore, tensions are experienced between those operating within, and outside, it. In particular, the excerpts presented in this chapter show how the discourses of safety construct students as safe or unsafe. Using Hekman's argument regarding the discursive subject, the 'unsafe student' is constituted here by the discourse of safety, among others, and there is no one definitive or true unsafe student. Instead there are multiple identities of unsafe students such as those who knit in class, or lack insight, or lie, or injure patients.

The ex-head of school in Case C explained that there was real potential for discrimination:

I think safety is an interesting discourse in nursing in any case. I think that it can be used - it can say many things to many people - and its kind of how it gets used - as a mechanism for gate-keeping usually. And I guess I challenge where I see it being used ... I mean I can see it being used legitimately, with a legitimate concern ultimately for people's safety. But I also see it being misused in some situations, as a gate-keeping tool. (Case C: ex HOS)

The complexity of nurse education is revealed by the examples provided in this discussion. Not only are there tensions between nurse educators and non-nurse educators within the context of the educational institution, there are also differences between nurse educators and clinicians. Many nurse educators appear to be struggling

with their responsibilities, as registered nurses, to protect the public, and ensure public safety by restricting access by students deemed to be unsafe. However, when placed in the clinical context, this responsibility appears to shift to the clinicians, allowing the nurse educators to assume more of a student advocate role. Responsibility, shifting, and swaying, are themes that emerge in this research and are explored further in each case study.

In her discussion on the discourse of safety the ex-head of school in Case C intimated that, in her experience, safety was used specifically to raise doubts about a student:

But I think over the years I've listened to nurse educators and, if they want to make a point about whether or not a student should proceed, or not, the issue is always about ... it's always couched in terms of safety. (Case C: ex HOS)

Several issues are raised here. The first is why safety has to be the bottom line in making the point. Some answers to this have been hinted at in the previous examples of the management of unsafe students, and the difficulties inherent in this process. A second issue is that the use of 'safety' has an intrinsically moral dimension in this context. Here the discourse of safety can be understood as a language game, as described by Lyotard, and specifically, I would argue, as a moral language game, as described by Hekman. As such, the content of the moral language game is contextual, historical and culturally relative. The form this moral language game takes, however, is unique, that is, it contains within it the claim to certainty, to being right. This moral language game has implications regarding responsibility and accountability for acts and omissions by students, and how these are managed in the tertiary education context. These issues are expanded on in the following chapters.

Summary

In the literature review it was seen that no clear definition of unsafe nursing practice exists, and that being unsafe is a contested construct. The purpose of this chapter has been to introduce the three case studies and to demonstrate dilemmas created in identifying students as unsafe. It has been important to present the participants' own words as this allows readers to develop their own analyses, and conclusions. The three

case studies are unique in the way that they address specific issues of student behaviour within the context of their respective educational organisations. Together they demonstrate some of the difficulties and dilemmas in ascertaining what is, and what is not, unsafe student behaviour.

The synopses of the case studies highlight tensions between nurse educators and non-nurse educators, and clinicians, in the management of unsafe students. The focus in this chapter has been on safety and what student behaviour is considered unsafe; what it is that students actually do. As mentioned, the student voices are absent in this study and so the way in which students, as safe or unsafe, are constructed by their particular discourses is missing. In the cases presented here, unsafe students are constructed by the discourses of the participants in this study. As discursive subjects they are constructed variously as manipulative, victims of circumstances, irresponsible and dangerous. Unsafeness is also constructed discursively and includes such activities as eating in class, being late, giving out medications without supervision, committing fraud and lying.

Overall the messiness, the inconsistency, the subjectivity, and the lack of clarity and consensus over what is, or is not, unsafe, are highlighted. The discourse of safety could well be considered one of many language games readily available to nurse educators, and education managers. However, it appears from this brief look at the three case studies that not all participants play the safety language game or, those that are playing it may not all be following the same rules, especially given the ambiguity of the notion of safety. The effectiveness of this language game of safety, especially as a specific moral language game, is also unclear and will be explored further in subsequent chapters.

In Gilligan's (1982) research, she found women perceive that activities of care make the world safe. Nurses are extremely caught up in trying to make the environment safe for patients. They have, however, in the case of unsafe students, people who not only lack the wherewithal to make the world safe via an ethic of care, but also they themselves constitute the potential risk, from their unsafe behaviour. Nurse educators are not in control of making the situation safe in the clinical or, as will be seen, the educational context; they are unable to supply the necessary safety nets. They dwell, as Smythe

(1998) would argue, in a place of vulnerability. Nurse educators are often, therefore, faced with a moral dilemma when managing the unsafe student. In this chapter the emphasis has been on the unsafe student. In the following chapters the issue of nurse educators, and *their* 'safe ground' (Fitzgerald & van Hooft, 2000), the context in which they work, is examined in detail.

CHAPTER SIX

CASE A

The behaviour of the student who provided the focus for interviews in Case A presented participants with a particular moral dilemma. The question in this case was not specifically unsafe practice, but whether the student was fit and proper and of good character for the nursing profession. As such, this situation raised not only a moral issue, it also highlighted tensions that existed between professional education, and education as an endeavour in its own right. This chapter examines the management of the case, and the process of decision-making, within the context of the tertiary education organisation A. These processes are analysed looking specifically at moral voices, moral selves, and moral language games using the work of Gilligan, Friedman and Hekman.

This chapter is divided into two main sections. The first section looks at the management of the student who committed the fraudulent act. The issues of the 'tyranny of kindness' and 'of being burnt', and the survival strategies adopted by participants such as 'passing the buck' and 'covering your butt' are identified and explored. The decision-making process involved in the management of the student, and how nurse educators position themselves between the 'two hats' of education and nursing, are examined in the second section.

Managing the Case

In Case A, seven people were interviewed, five of whom had been directly involved in the management of the student who had committed the fraudulent act. The dean and registrar, while not directly involved with this student, had considerable experience in the management of failing, and problematic, students. The organisation in Case A had developed decision-making processes involving committees, panels and boards. Individuals prepared cases that were then presented to these various bodies and, depending upon the strength of the various arguments, decisions were made using

democratic processes. The head of nursing in Case A also had individual authority to sign-off the student for the NCNZ State examination leading to registration as a nurse.

Making the Case

The interviews in Case A, regarding the management of the student who had committed a fraudulent act, revealed strong moral voices. As discussed earlier, the student's actual clinical nursing practice had not been in question regarding patient safety, but her fraudulent act raised questions regarding her honesty and integrity and, ultimately, her trustworthiness as a future registered nurse.

The third-year co-ordinator described her thoughts and experiences as follows:

I mean we knew how to deal with it [the fraudulent act] from a statute perspective. But it's not just the statute you're talking about ...there's the context, there's the personal relationship, there's knowing her history ...there's what it's going to do to her career - that whole other area that isn't black and white. (Case A: 3rd YC)

The 'statute' was this particular organisations' name for their council approved protocols, rules and regulations governing programmes and students. In Case A, there was a strong emphasis on this statute, and the formal, quasi judicial-legal, organisational framework in which the processes and procedures were situated. However, in this quote the third-year co-ordinator articulates a voice of care and responsibility. More information is required, other aspects of the case deserve consideration, and resolution is not just a question of applying the rules and regulations. The statute does not provide the only perspective; the context, the student's specific circumstances, and the personal relationship between the nurse educator and the student created another perspective, one that challenged the formal, black and white, approach. However, the relationship with the student did not invoke partiality, as in the Heinz dilemma; the student was not the daughter, sister, friend or spouse of the nurse educator.

The third-year co-ordinator appreciated the ability of the head of school to focus discussions on the consequences of the fraudulent act, and to separate these from the social and personal context of the student, especially when the conversations became

“too emotional.” The third-year co-ordinator described how the head of school was able to “ground the group” when they “strayed.” The head of school took the lead regarding the management of the student in Case A and, according to the third-year co-ordinator:

[The HOS] was very, very clear about the process - wasn't particularly interested in the context - she cut through that ... all that personal stuff that we know. Yeah, that might all be important before this all happened, but it's not germane to the decision we have to make now. ...Because most of the people on the programme committee knew her very, very well, we couldn't help but deviate and get ourselves caught up in a whole lot of other stuff. But she was the person who kept bringing us back, bringing us back. (Case A: 3rd YC)

Here the third-year co-ordinator is describing a tension that arises from her tacit knowledge of the student and the fact that this affected the way she, and her colleagues, engaged in moral reasoning with a real, and not hypothetical, problem (Friedman, 1993). She shows how she strives to silence the voice of care and responsibility, because it was “not germane to the decision” and how the head of school was seen as helping to reconcile this moral dilemma.

The head of school, who did not know the student personally, was sympathetic regarding the student's state of mind. However, for the head of school there were legal connotations, as well as a public safety risk, regarding the student's actions. The head of school reflected her rationale, and moral reasoning, as follows:

I personally, I felt deeply for her. I could understand where her heart might have been in it. I could understand that she perhaps wasn't thinking terribly clearly. But, unfortunately, the law is the law basically, and there is a standard to be upheld for the programme. And so I... my vote was to exclude her from the programme - which was one of the options ...I believe that to be the right decision because you know ignorance, or situation, isn't enough reason for [committing a fraudulent act]. And, because the implications are for other people, then there is a risk, a public risk. And so that was basically my position on it. (Case A: HOS)

This is a very clear statement whereby the justice and rights voice (the one adhering to laws, standards and principles), takes precedence over consideration of the personal circumstances of the student, and provides the ‘right’ decision. Interestingly, in this

quote, the rights and justice voice is the legitimating authority; the potential risk to public safety merely adds weight to this perspective.

The head of nursing in Case A believed the student should not continue on the nursing programme, and did not sign her off as fit and proper and of good character, in order to sit the NCNZ State examination and register as a nurse:

Coming up to the programme committee meeting, some of the staff said to me, “Well what do you think?” and I said, “I think we have to exclude her.” And then I’d hear all the reasons why we couldn’t. But I was quite clear. The person had committed a [fraudulent act], which had raised major professional and ethical issues, and I did not believe the person ought to be a registered nurse. They had self-declared themselves to be fit and proper, and yet we had evidence to say they weren’t. And there was evidence to say that she had done it with deliberate intent, and I was not convinced, even personally, from the conversations I’d had with her, that she would change, really. That was my opinion. (Case A: HON)

Again, the moral voice of justice and rights is evident in this excerpt. The head of nursing was very clear that the student had committed a fraudulent act, that she had done this deliberately, and that this raised moral issues regarding her suitability for the nursing profession. The issue was presented as black and white; there was no alternative course of action other than exclusion.

The head of school stated she could understand “how staff were swayed” by their knowledge of the student, and her personal history. The third-year co-ordinator expressed confusion about whether it was better to know, or not to know, details of the student’s personal life, in the interests of both the student and the nurse educators:

And then it made me think about our relationships with students and the fact that they do come from highly complex social situations; because of what we do we tend to nurture them; and we know a whole lot of things that maybe we don’t need to know, or it would be better if we didn’t know. But the reality is we do. And in this case we did. (Case A: 3rd YC)

Here, “knowing” the student and having a caring relationship with her created a real, not hypothetical, dilemma. The third-year co-ordinator described how it was not so easy to ignore, or put aside, tacit knowledge of the student. In addition, there was an acknowledgement of her personal circumstances; contextual relativity was present

(Friedman, 1993; Gilligan, 1982). The third-year co-ordinator appeared to have difficulty with viewing the problem in the abstract, and separating this from the people involved, as required by the dominant positivist paradigm found in education assessment and evaluation.

In this case study the theme of ‘swaying’ between differing perspectives, in the process of managing the situation, was strong. This swaying became particularly evident as the situation and student context became known; that is, as more information became available to staff. The head of nursing described how he “stood aside” whilst much of the debate raged around him, with people swaying back and forth. He, however, remained firm:

The initial response by some members of the programme committee was – Shock! Horror! “This is terrible!” “She shouldn’t do that - she should be out.” And then, when a bit more information came out about the student’s circumstances, there was, I believe, personally, a clear swing in her favour saying, “Oh well. This is understandable.” ... So throughout the conversation you could hear, “We can’t exclude her. We have to give her more time. Let’s give her another chance.” And then it would go another way, “No, no, no, you can’t.” ... Ultimately it was my responsibility to sign this person off ... to be a fit and proper person, or not, and the bottom line ... I don’t believe I was being swayed one little bit by all the fuzzy-wuzzy stuff. (Case A: HON)

In the end the head of nursing described himself as “gob-smacked” that some of the nurse educators considered that the student’s personal circumstances could be used as a reason to excuse her behaviour. This situation is an illustration of Friedman’s argument regarding partiality and judgments, about the right thing to do, depends upon who the players are, and what types of relationship they have (Friedman, 1993, p.105). It also highlights the fact that not all nurse educators agreed on the interpretation, or implications, of the student’s behaviour.

The third-year co-ordinator and the programme leader were clear that they had each formed a relationship with the student; they both cared about her, and were concerned for her. They talked about their feelings and emotions in the management of the student. The programme leader reported how, by the time the nursing management team met as a committee, he and his colleagues had “worked through the emotions” and “our own emotional baggage around it” and so were able to “remain a little aloof” when

the student presented her case in person. The programme leader referred to the emotions as being a “complicating factor”:

The other complicating factor was the emotions around it. Because I think all of us actually really liked that student, and had a good deal of admiration for her, because her personal history had been very difficult. And she was one of these students who appeared to be triumphing against all the odds ...that made it really difficult. So that clouded it for us. But, in the end, it had to come down to putting the emotions aside, putting the liking for the student aside, and looking objectively at what she had done. (Case A: PL)

Here the programme leader illustrates how the modernist paradigm of positivism dominates. He spells out the need to put the emotions aside and look objectively at the student’s behaviour (see Duke, 1996; Mahara, 1998). The context of the student’s behaviour might make moral reasoning difficult, but there was a bottom line of rational thinking, the need to remove the problem from its personal, historical and contextual location (see Scanlan et al., 2001).

The programme leader used the metaphors of his ‘heart’ and his ‘head’ to differentiate between his emotions and feelings, and the need to be rational and objective. He described how the student’s behaviour created a situation in which he had to be “very dispassionate”:

But it was the subsequent actions that were driven by, I guess, by the person’s state of mind at the time, [they] were just too far reaching for us to be able to act in a way that our hearts might have dictated. And so we actually were forced to act from the head, and be very dispassionate. (Case A: PL)

The metaphors of the heart and the head emphasise the contrast between feelings and emotions, and objectivity and rationality.

The third-year co-ordinator also talked about how the whole situation with the student was “a very emotional experience.” Like the programme leader, she also reported that many of the nursing management team had “moved sufficiently” so that when the “emotional stuff” came up again in the programme committee meeting, after the student had presented her case in person, they were able to “cut out a lot of it” and “put it way out here [wide arm gesture] where it really did belong” (Case A: 3rd YC).

Gilligan's (1982) contextual relativism is well illustrated in the head of nursing's description of the nurse educators' swaying. As the details of the student's circumstances came to light, so the nurse educators incorporated this into their moral reasoning. In the end, the third-year co-ordinator considered that it might be easier if they did not have knowledge of the student's personal history. In addition to this, the programme committee met the student in person, and so the situation was real, not hypothetical. They had what Friedman describes as, "tacit but crucial background information" (1993, p.110). However, in this case, while knowing the context resulted in some understanding and sympathy for the student, she did not qualify for special treatment, or partiality. She may have overcome the odds, but she herself had created a moral dilemma that had potential consequences for others. Rules had been broken; standards needed to be maintained. Principles of fairness and justice dominated; the head of nursing, the head of school and the programme committee were not moved in the direction of contextual relativism. In reaching a decision they had to accept that the student may get hurt, but the personal problem had to be separated from the wider problem of public safety.

The Tyranny of Kindness

The head of school explained how one of the nursing team had coined the phrase 'the tyranny of kindness'. This phrase referred to nurse educators giving students the benefit of the doubt, and additional, but informal, chances to achieve the required standard, and competencies. Duke (1996) reported a similar finding.

The first-year lecturer described how the tyranny of kindness could exacerbate existing disadvantages, rather than diminish them:

So, I see that we have ethical responsibilities to actually draw appropriate lines. And it concerns me when I see students here [for] five years and who're not going to make it. And they are often disadvantaged students anyway, and we're just increasing that disadvantage ... I don't know that many of my colleagues share the same thing, but sometimes I think there's a great generosity that goes there. (Case A: 1st YL)

Here the generous act was not perceived as responsible, or ethical, and resulted in further disadvantage for the student. In Case A, the tyranny of kindness had the result of allowing students to continue on the programme when they were clearly failing (see Rittman & Osburn, 1995; Watson & Harris, 1999). In this respect, this activity could be perceived as not caring, but enabling as described by Espeland and Shanta (2001) and Sumsion (2000); that is, doing for others that which they should do for themselves, in order to learn and grow. This behaviour is understood to create dependency, rather than independence and autonomy. Gilligan argues that this type of care, as a form of dependency, is a “paralysed injunction not to hurt others” (1982, p.148) and is found in contexts where the assertion of individual rights is considered dangerous. Once the danger is removed, the notion of care expands to care and responsibility. In Case A, the danger as described by nurse educators is “being burnt” (see below).

The programme leader referred to students having been “let through” and “pushed through” because “we feel sorry for them.” The head of school talked about the *staff* seeing the consequences of their actions, as opposed to the students’ perceiving the consequences of theirs:

I wanted them [the staff] to see the consequences of their actions, and ...that was really excellent once they’d grasped that, actually, it’s immoral taking somebody’s money when they’re likely to fail, and it’s immoral to place the public at risk over it. They started to get licence to hold the line. (Case A: HOS)

Like the first-year lecturer, the head of school perceived the nurse educators’ actions as being unethical. Interestingly, the head of school reverted to the discourse of safety, referring to the public safety issue, using this as an additional lever, or justification, to change behaviour.

The registrar was quite clear that being “too soft” was, in fact, unfair, and uncaring:

So, what’s ‘care’? I mean it depends what your concept of care is. I don’t think it’s caring if you provide an unfair environment for one person because you’re too soft and compromise the standards that you’re setting. ... So I’m not sure what caring means. ... Now, I’d think to care, to me, means caring about them and helping them to achieve. It doesn’t mean falsely stating that they’ve

achieved a standard when they haven't. That, to me, is dishonest. (Case A: Registrar)

The registrar moved the discussion from the individual, "one person," to "them" and, in doing so, from the particular to the general. The situation then became one requiring the application of principles, such as honesty, fairness and justice. The registrar also re-defined care in a way described by Fitzgerald (2004) with different occupational groups.

The programme leader talked about how caring might make the carer feel good, but this was problematic in the context of education, and for the nursing profession:

I've got a belief that as educators we have been too caught up in the caring and, sometimes, that caring ethos promotes us acting in ways that make us feel good, but aren't necessarily good for the profession. Does that make sense? ... And I've had to learn that you don't have to be liked. Now I think that's a big one for many nurses. Because it was important, it was important to have patients who liked me, that I could get on with and make things better for them, and to have them light up when I came into the room, knowing that they would trust me. But the relationship I have with students has to be completely different, different boundaries, much clearer, much firmer, much less giving of myself. (Case A: PL)

The dilemma of the tyranny of kindness echoes much of the literature on the failure to fail (Boley & Whitney, 2003; Duffy, 2004a; Duke, 1996; Hrobsky & Kersbergen, 2002; Lankshear, 1990; Mahara, 1998). In the descriptions in Case A, the cause of this was identified as the nurse educators' inability to "hold the line" or "draw appropriate lines." In shifting the emphasis to fairness, justice, and principles, the wider context is highlighted, avoiding separating the moral problem, in this case the tyranny of kindness itself, from the "social contingencies of its possible occurrence" (Gilligan, 1982, p.100). However, as will be seen, it was the wider context, the educational structures and processes, which contributed to the problem in the first place.

Special Circumstances – Special Treatment

The issue of how to manage individual, special, or extenuating, circumstances was discussed by participants. The head of school provided an example of the difficulties inherent in the issue of special circumstances:

We've had people with special circumstances where I've said to the committee, for one girl, because time and time again here she is with special circumstances, grades and resits, and I've said, "This person's entire life is a special circumstance. It would have to be something, you know, dramatic to make it special on top of her life. Her entire life is like that. And, you know, there is nothing special about that circumstance for her. It's hugely special for me, but would be absolutely part of her existence [ironic laughter]. In which case do we not consider it special and just treat it as 'this is your life, and if you can't manage the programme in your life then you can't manage the programme'?" (Case A: HOS)

The registrar talked a great deal about academic integrity, and emphasised maintaining standards. She stated she was averse to reducing standards to meet individual needs, but owned this as a personal opinion:

But I, personally, am hugely against ever reducing standards to accommodate personal circumstances like that. That's a personal thing. Now I don't know to what extent I reflect that. But, to me we have a duty to discharge, to maintain the academic integrity of what we're offering, or what we're purporting to offer. And also, I think that if we do, I think we have a responsibility as an institution ethically and morally to not factor in things that might cause risk to others, to accommodate those individual circumstances. (Case A: Registrar)

The registrar also talked about how she had incorporated the organisation's stated values of "honesty, dignity and respect, and fairness and justice" into her own way of thinking. She linked the notion of meeting standards with the concept of honesty.

It appears here that the head of school and the registrar are in fact saying the same thing, but in significantly different ways. The head of school locates the student in the student's own chaotic, personal context, but shifts responsibility for this from the committee back to the student; the registrar locates the student in the wider moral world of fairness, justice and principles. She applies the rules, which she also considers to be a caring activity (see page143).

Special circumstances raise the issue of partiality, whereby the individual context may provide justification for a response not congruent with the straightforward application of principles. Issues regarding fairness and justice are raised when students do not come from a so-called level playing field, when students might have odds to overcome. This situation is particularly challenging when the educational organisation has an emphasis

on providing educational opportunities for those who have not been able to benefit from them previously (see Case C).

Due Process

All participants in Case A emphasised the structures and processes developed and established for managing educational activities. Many referred to themselves as “process people” and had familiarised themselves with the rules and regulations, and the policies and procedures, in order to facilitate the management of students, and the nursing programme. The head of school explained how a shift in management practices had not been without its problems; for instance teaching the staff about their continuing individual responsibility to “hold the line,” follow due process, and ensure natural justice. This approach reflects that reported in much of the literature on managing students (Boley & Whitney, 2003; Chasens et al., 2000; Osinski, 2003; Paterson & Lane, 2000; Smith et al., 2001).

The head of nursing, who described himself as “a process person,” provided a detailed description of how he prepared the case, regarding the student and her fraudulent act. Throughout the interview he emphasised how he had followed due process, and how natural justice had been achieved. In this description there was an inherent assumption that these practices were themselves fair. The head of school and head of nursing described how they commenced making the case together by identifying all the legal and statutory codes, rules and regulations that had been broken, or compromised, by the student. The approach was very much one of a legal model, ensuring that all the evidence was gathered, all the documentation completed, and all protocols followed.

While the nursing school emphasised the importance of due process, and natural justice, not only to ensure fairness for the student, but also to ensure that failing students failed, the registrar commented:

You know, you can be as good as you like but you’re gonna trip yourself up somewhere with a procedural error. And that’s of course what my experience is ... it invariably falls to a technicality, which is designed to provide another opportunity to actually have another go, or something, in another environment, dealing with the substantive issue. (Case A: Registrar)

The third-year co-ordinator provided a good understanding of this situation in her experience:

I get - become - frustrated when we seem to have missed something, and that there has been a material irregularity. When we may have debated this, and looked at, you know, all the policies and procedures, and what have you, and thought, “no, this is right.” And then a hole is found in that process, a little tiny hole. Sometimes I think we ought to be lawyers, or have some training in law, because we'll be tripped up, and we just can't imagine that this could happen. Or, you know, then they'll find one little part of the clinical log that wasn't signed, and yet everything else has been signed, and you think we do, you know, sometimes get very, very busy, but in the end you actually can't afford to not, you know, do everything absolutely correctly. (Case A: 3rd YC)

Given the above situation it is hardly surprising that so much energy and attention is placed upon following procedures, implementing policies, and ensuring that protocols are followed. In many respects, this activity echoes that of the nurses in Hunt's descriptions of procedural reductionism in the hospital environment, absolving players from ethical worries (1994a, p.13). It raises the issue of justice and accountability, and how a focus on administrative paraphernalia can be used to legitimate actions and settle conflicts of opinion (see Benner, 1994; Johnstone, 1994a; Phillips, 1994).

A focus on process does not, however, necessarily lead to the right answers, or ensure that justice takes place. There is an assumption that natural justice, as procedural fairness, if implemented properly will lead to the right answers. However, questions of fairness and justice are raised when a breakdown in the technicality of procedure results in unsafe students having access to patients once again. As will be seen, nurse educators, as well as patients, are left vulnerable in these situations.

Being Burnt, Passing the Buck and Covering Your Butt

In Case A, the emphasis on due process, natural justice, and following protocols and procedures created a climate whereby people became pre-occupied with protecting themselves.

The head of school commented that, when she first joined the institute, she discovered that people were no longer “holding the line” because they had been “burnt”:

And it was then that all this stuff came out about how staff had been ...had held the line, had had it go to appeal, had been roasted at appeal - over other cases - and were now so burnt that they would not see through on students' failure, because they felt unsupported in the system that [did not take] their professional word into account. ... I think the staff now have an increasing confidence that ... processes should not burn them, they should work, because we've now modelled it enough times. So I would say people are not as reticent at holding the line as they once were. (Case A: HOS)

In Case A, not only was holding the line an important skill to develop, but there was also an emphasis on making the ‘right’ decision and ‘being right’. This finding is not surprising given the litigious nature of the environment and the traditional use of so-called democratic structures, such as decision-making committees and appeal panels, and processes such as making the case and voting.

The head of nursing confirmed the story that the head of school had told, regarding how staff had been burnt through holding the line:

I mean we've had cases where we've had lawyers and court cases and an appeal hearing, and the people who come out the worse are the staff because there's no support, and I've felt terrible, and in fact I've had staff go off on sick leave because of being treated in the most horrendous way. (Case A: HON)

In his interview the head of nursing explained why he was providing such a detailed account of events, and of his actions:

Part of the reason I also did give some of the detail [to you] is that I have been burnt so many times with nursing students, because issues of natural justice have been argued - and not having the i's dotted and the t's crossed - and I just make sure I do it - and there's a huge amount of work, but I have done it. ...I usually document things a lot. I - as soon as I've had a meeting with somebody I - if I can't have someone there to witness it - I will write it all up, put it on file, and send the person a copy telling them what's going on - basically there's a lot more covering your butt now. (Case A: HON)

The head of nursing reported that he had consulted the registrar, who had a legal background, the legal advisers in the NCNZ, and an academic colleague with expertise

in ethics, in the course of the management of the student who had committed the fraudulent act. These actions could be interpreted as the need to obtain validation for his actions by appealing to authoritative experts, an appeal in fact to the discourse of justice. In emphasising how he had tried to follow procedure, the head of nursing also revealed how he had also 'covered his own butt'.

Both the third-year co-ordinator and the programme leader expressed their fear of being burnt. When asked what his major concern was regarding the management of the student the programme leader answered:

I mean it [the major concern] wasn't a huge fear that I'd be compromised. Rather, it was more that I didn't want to come unstuck because I did something wrong, that I made a small slip up. And I have had experience in the past where issues have gone to appeal, and it has been some really small slip up on behalf of the lecturer concerned, or the programme leader, where we haven't just followed the - you know - the minutiae of the statute. There may be something as simple as something's not dated, or something's not signed properly, and it's just given cause for doubt. And the problem is, that for a group of nurses or nurse academics, educators, there would be no cause for doubt - it would be very clear-cut. So that was my first concern. The second concern was how to, how to deal with this in such a way that fairness occurs. So, first it was kind of I'm concerned for her emotionally, and the consequences it would have. And secondly, how can I deal with it so that it could have an equitable outcome that actually protects the programme? And I suppose really my third fear was how do I personally wend my way through this minefield at the same time keeping myself safe to a certain extent? (Case A: PL)

There is an interesting parallel here between the unsafe student giving cause for doubt, through her behaviour and attitude, and the omission of evidential detail (in making the case), also giving cause for doubt. This situation contrasts with giving students the benefit of the doubt, that sometimes results in the failure to fail, and which then turns out not to be a benefit at all. In the quasi judicial-legal system, upon which the organisational systems in Case A appear to be fashioned, there is no allowance made for minor procedural errors, even though the evidence gathered produces no doubt at all, from the nursing perspective. In the end, the programme leader appeared to appeal to the issue of safety, but this time his personal, individual safety, within the "minefield" of the structures and processes and the "minutiae of the statute." Here, the programme leader reflects the findings of Churchman and Woodhouse (1999) of the conflicts experienced by professional educators regarding competing demands of educational

institutions and statutory bodies. The tensions between education and nursing as professions are explored in greater depth later in this chapter, and statutory conflicts between education and nursing are addressed in Chapter Nine.

The organisational processes for managing students were not the only ones creating problems for nurse educators. The first-year lecturer described how he was disillusioned with the processes concerning curriculum development and module delivery. He believed that the mechanisms to ensure safety and accountability, such as small class numbers, had been relinquished in the drive for efficiency and organisational expansion. He considered this had implications for both student and public safety and resulted in people 'covering their butts':

The rationale for the developing of the student's safety was overlooked ... because it would mean running the paper twice and that raised cost issues. But I mean it wasn't even discussed - nobody would actually discuss that safety issue. They just would look at the expediency, and the precedents already set ... well many of us didn't appreciate what was going on - and it was just - well what's the point ... [with all] the covering your butt that's been going on. ... That [activity] frustrates the hell out of me. (Case A: 1st YL)

Decision-Making

In Case A, the organisation had developed a committee structure for processing educational and academic business. The programme committee dealt with the day-to-day running of the programme, including processing examination results, monitoring student performance, and making decisions regarding progress. The programme committee reported to the faculty academic committee, where students' lodged appeals regarding programme committee decisions. Decisions were made via discussion, debate and argument, along so-called democratic lines, with the majority vote ruling when consensus was not reached. In this system responsibility and authority for academic and educational decisions rested with committees rather than individuals. However, as seen below and in Chapter Nine, responsibility for the public safety consequences of these decisions, for nursing per se, rested with individual registered nurses.

In the context of nursing the student, the head of school made the following interesting comment:

I felt very anxious over this time that the staff could see the student's perspective as taking precedent over the professional, public perspective. And, as that has improved over time, I've had increasing confidence that the school is on a more sound footing. (Case A: HOS)

It could be argued from this excerpt, and from the earlier discussion regarding swaying, that the staff took seriously the student voice, and circumstances, in much the same way they might that of a patient, in their capacity as registered nurses. The emphasis here appeared to be on advocacy, a traditional nursing role with the more vulnerable patient, rather than any assertion of student rights. The head of school, however, in emphasising the public perspective, hinted at the discourse of safety. In doing so she placed the requirement to put the needs of the collective, the wider public safety issue, ahead of the rights of the student (Hart, 1998).

The head of school's confidence in the change in nurse educators' attitudes and sense of responsibility seemed to be confirmed by the programme leader. He remarked how his responsibilities, as a programme leader, had led to him becoming "tougher" and "more objective":

Well. Let's just talk about my role as programme leader. That's certainly changed me. I've become - not less compassionate - but more objective. I see things perhaps a little more clearly now. Actually, that's not really a good way of describing it. I make decisions in a way that I once wouldn't have. I've become tougher. (Case A: PL)

The programme leader stated that his gut feeling was that the student had learnt from her mistake, but "you're not allowed to work with the gut - you have to work with the head." However, despite all his talk of being objective and dispassionate, and doing the "right thing," the programme leader admitted to having had a meeting with the student and having subsequently written her a letter. In this letter he emphasised that the school would welcome her application to return to the programme "once she had sorted herself out." He considered this was the 'compassionate side' of him coming out, but he was concerned at the time that, should the situation turn litigious, this empathetic letter might compromise the line taken by the programme committee. The contradictions

between what the programme leader said he felt, and what he aspired to be, and then what he actually did, is a wonderful illustration of Hekman's argument that, "what we know and who we are cannot be neatly separated" (1995, p.69). While the programme leader struggled to move his care voice into the justice and rights moral framework, his actions gave the lie to this re-orientation. The 'compassionate side' won the day.

In Case A, there was frustration that some of those in decision-making positions did not understand the implications for the nursing profession of an unsafe nursing student winning a case, or an appeal, through challenging due process. The tensions, between nursing and education as separate professions, manifested as process problems in this instance. The dean in Case A perceived tensions between education and nursing, as separate professions, but presented herself as being powerless to resolve these in the face of the organisational processes. She did, however, understand the dilemma:

And that's a difficult one because we ... need to show that natural justice has occurred. But sometimes you feel well, in doing so, you're sort of allowing for - if the due process hasn't occurred what do you do? You know, you have an obligation to allow the student to have a second chance, but also you know that maybe they could be unsafe. (Case A: Dean)

The dean went on to explain that she did not consider that the educational structures and processes were adequate for supporting or supervising unsafe students and that the onus for managing these students was with the "members of the profession." However, the dean acknowledged a double-bind in the situation whereby it was the professionals who had the authority to define students as unsafe, but they did not have the authority to exclude them from the programme. Worse still, the dean stated:

I have that authority [to exclude students] as dean, but ... I only have that authority under the academic statute, which may not apply in these cases. So in fact the authority doesn't really lie with us at all and there is no authority. And you go to Nursing Council and they say "we're only interested in people when they become registerable," in which case you may be talking two or three years down the track and all sorts of damage can occur in the meantime. So that's certainly that situation of someone coming into the programme and how we manage (sic) that risk. (Case A: Dean)

The head of school articulated a loss of power and influence within the organisational structures and processes. However, this situation did not stop her, and her colleagues,

from attempting to make this professional, problematic issue visible, and effect change, as recommended by Cash (2001), Johnstone (1994a) and Pask (2001), even though this action was perceived as futile:

The [nursing] profession had a capacity to influence that decision at programme committee level. It lost professional power the further up it went. And that would be pretty true of all the appeal processes. You would have less and less professional clout the further up it went. And this caused us to write a memo - this was another case - this was to our academic development unit - and suggest [that] where the issue was one of some professional concern that their panels and appeals should always have a professional opinion taken into account. [But], that's never going to have any traction as an argument. (Case A: HOS)

An issue that elicited a variety of indignant and frustrated responses was that of non-nurses making decisions over what were perceived as professional, nursing matters, as opposed to educational matters. The dean appreciated this dilemma regarding decision-making, public safety, and committee membership in the student appeal situation:

I may well get clinical advice that says - suggests to me that this student should not be allowed back into clinical. But I have no mechanism for enforcing that because I have to work under the statute and the statute only allows for certain reasons for excluding students, or whatever, and then the reasons of public safety in clinical environments aren't there. ... I mean why should a zoologist and a sportsperson and a plant physiologist, or whoever I might have, know anything about the clinical environment of nursing? You know, what could be safe, and what could not be? (Case A: Dean)

The programme leader appeared to resort to the issue of public safety, the discourse of safety, to make his point, as a professional:

But these cases are often being heard by people outside our profession, which is a huge tension for us. So I sometimes find when I go into the appeal situation I get quite argumentative because I feel very strongly about people outside of nursing making professional decisions, particularly when some of those decisions are based on educational grounds, not professional grounds. And I guess I can understand where they're coming from but, when it comes down to me, I guess essentially I think we have to protect the public. And these other educators don't see that, because their field is so different. I think nursing education is probably the most complex area. (Case A: PL)

The tension between nursing and education, as disciplines, is again apparent in this quote, and reflects the findings of Churchman & Woodhouse (1999). As will be seen

later, the programme leader contradicts himself regarding decisions being made on educational grounds. In this excerpt, the programme leader adopts the nursing discourse of safety to make the professional point.

The third-year co-ordinator also expressed her frustration and dissatisfaction with the appeal system, and the assumptions made about nursing:

And often we're very frustrated by the fact that they're in there making judgments and they actually have no idea about the wider context, or the context of nursing. And that can be very frustrating. And when they make some of the decisions we often say to ourselves, with our nurses' hat on, "I wonder if they have any idea what the implication of this is on nursing practice." And what happens is, and I've been part of appeals as well, where we're called in as the faculty member, and we're asked a series of questions - *we* don't get to ask any of course - and we answer them, and then we leave. And you sort of - you leave the room and you think "goodness me!" You look at these faces around the room, and none of them, in fact, would have any idea really of what, of what we know about our profession. None whatsoever. (Case A: 3rd YC)

In Case A, a clinical psychologist had written and sent a letter of support for the student to the faculty academic committee hearing the student's application to return to the programme. The head of school, the head of nursing and the programme leader individually commented on this letter. All of them were indignant that a non-nurse should have the effrontery to advise the committee that the student should be allowed to return to the nursing programme, regardless of their own opinions on the matter. According to the psychologist, all that the student had made was "a silly error." The nurse educators considered that the psychologist demonstrated no understanding of the nursing profession and the statutory requirement to protect the public from unsafe nursing practice. Once again, there is evidence here of a nursing discourse operating within the context of an educational environment, and in conflict with other discourses, such as an educational discourse.

The head of nursing was faced with a specific predicament. He had the delegated responsibility in this school of nursing regarding signing-off the student, as fit and proper and of good character, to register as a nurse. He made his personal opinion known, but when the faculty academic committee voted for her return, he ensured that both the student, and the NCNZ, knew how this decision had been reached. The head of

nursing stated he was not sure the organisation would back him up if he actually signed-off the student as not being fit and proper (as opposed to not signing the form at all). The head of nursing described how he considered the faculty academic committee had “passed the buck” onto him by re-admitting the student onto the nursing programme and knowing that, at the end of the day, it was his task to sign her off for the NCNZ. The head of nursing acknowledged that, in the end, he in turn passed the buck on to the NCNZ, by not signing the student’s application form for the State examination.

The head of school stated categorically that she would have supported the head of nursing in whatever decision he made. The head of school was also confident she would receive support, for her professional opinions, from senior management, but this had not been put to the test. The dean raised the issue of support, noting the differences between the two professions of education and nursing:

I mean there’s plenty of support in terms of making decisions - from an academic point of view. I’ve got the statute, I’ve got the guidelines, I’ve got precedent, I’ve got other academics around who’re listening to the appeal, and judging it from their perspective. But where we don’t have support is I don’t have any clinicians. (Case A: Dean)

The dean in Case A consistently appealed to outside agencies – the NCNZ or ‘the profession’ for guidance and advice. There was no acknowledgement in her interview of the professional knowledge of the nursing team in her own faculty. It can only be presumed that, because these nurse educators were also academics, they were excluded from the dean’s frame of reference for professional advice and guidance.

Two Hats – Nursing and Education

In Case A there is confusion, and tension, between the separate professions of nursing and education, and the different roles of nurse educators. The head of school reflected these different tensions referring to nurse educators as having two hats, nursing and education. She was anxious that the nursing team sometimes, and vicariously, nursed the students. She considered that this situation could be “fraught,” especially as the students were, in fact, nursing “real” patients. She was worried that vicarious nursing might cloud the nurse educators’ role as educators:

Your nursing hat comes on when the student comes and tells you they've been exceedingly ill, and just had a hysterectomy, not your educationalist's hat which says, "Well you're out of time for an assignment." ... Your nursing hat says, "You poor darling. What can we do to get you an extension?" (Case A: HOS)

The head of school could be accused of stereotyping the nursing and teaching professions in this excerpt. However, her statement does highlight two very different activities within nurse education reflecting, in turn, two different discourses and subjectivities. This supports the findings of Manthorpe and Stanley who report how academic staff experienced role confusion with one nursing lecturer stating, "It was difficult at times to separate academic responsibility from my nursing/caring duty to my student" (1999, p.360). Feminists report the 'caring script' of women as part of a gendered division of labour in tertiary education, and not just an issue for the caring professions and they consider that educational organisations get a type of added value through employing female academics because of the caring skills they bring with them (Acker, 1995; Acker & Feuerwerker, 1996; Henry, 1990; Park, 1996).

The third-year co-ordinator and the programme leader reported how they had to do a lot of hard thinking about the student and her actions – that the actions had raised fundamental moral dilemmas for them both, and they had revised their own philosophies about education and nursing. The programme leader discussed what he considered to be the "nebulous notion" of caring, which he used to consider was a question of "making it right" and "fixing it." He described how his notion of caring had changed with becoming an educator, and he emphasised a need for teaching a changed understanding of care with students:

Personally I think nursing is about making change ... and, in fact, that requires a whole different raft of skills than what is encompassed in the notion of caring. I think caring gets in the way often. I would like to think that I can teach people to be less caring in a traditional way, but more caring in a way that allows them to stand dispassionately and look objectively about what is really needed in this situation. That's possibly more useful. (Case A: PL)

The caring voice is linked with the nursing hat, and making the *nurse* feel good while the positivist voice of education emphasised being objective, dispassionate, and "less giving of myself."

The third-year co-ordinator emphasised the goal of education as allowing students to reach their potential. She regarded her educator role as enabling students (used here in the traditional sense of empowering them), teaching them to think critically, and to learn from their mistakes and be accountable. However, the student's fraudulent act created a moral dilemma for her:

If you'd have said to me would she be an accountable student, and able to critically look at an action, and evaluate a possible outcome, I would have said, "Absolutely. Absolutely. Of course she would." And everything she did, of course, meant that that whole stack of cards came tumbling down. Because what I value in nursing education, what I thought we had nurtured in fact, when you looked at that one act, none of that applied. None of that applied [...] I did a lot of soul searching around it. And it wasn't just her. It was also my own stuff, as a teacher, and what we think we value, and what we think we're enabling students to be able to do. And then of course, one incident, and bang - it blows the whole thing!! (Case A: 3rd YC)

As noted, the head of school identified that nurse educators behaved differently according to which hat they wore – nursing or education. The programme leader translated the dilemma, inherent in wearing the two hats of education and nursing, as one of competing responsibilities:

Yeah, you wear two hats. Exactly. But ... to whom ... am I more responsible? That's where the dilemmas arise. Am I ... more responsible to my [nursing] profession than I am to my employer? (Case A: PL)

The third-year co-ordinator was extremely clear about her answer to the question posed by the programme leader. For her, the student returning to the programme meant returning to practise, and this was unacceptable. As a nurse, and as an educator, duty to the nursing profession came first. This approach ensured the integrity of both professions was maintained:

And I remember thinking, there was no question for the profession, none at all for us as nurse educators. I mean if we - if you let something like this go, and you don't follow process, and you say, "Well, yes, you've been a naughty girl, and you can come back and everything will be fine." I mean that just makes a mockery of everything we do as educationalists, and as nurses. So, probably, it was, in my role as educator, it would have been the most profound sense of duty to the profession that I've had, the most profound. (Case A: 3rd YC)

In Case A, the registrar did not consider there were two hats – education and nursing. All activity was part of an educational process, with measurable criteria, standards and competencies, against which the assessment and judgments were made, and which were fair and transparent:

Well I don't think it's two hats. I actually, I actually don't you know - hey again - I'm not an academic and I don't perform this function and maybe it's a - I don't see it as two hats. I think that integral to an assessment of a person is whether they're going to be able to competently discharge what ultimately is going to be required of them ... and that must be the dimension of the clinical, but it's separate from the fit and proper. It's about measuring their performance against the assessment criteria and making an assessment as to whether or not they meet those standards and, if they don't, they fail ... I'm sure it's not as simple in practice, but I don't see it conceptually as being difficult. At a conceptual level I think it's just like, it's like performance management of a staff member. I mean there's no hard and fast rules. But you basically say in order to achieve, you know, in order to be categorised as performing satisfactorily you need to have achieved these things ... I don't see it as being hugely different and I think it becomes much more difficult to assess qualitatively than quantitatively ... something much more esoteric ... so it's not hard and fast. (Case A: Registrar)

The registrar did not perceive any moral dilemmas in this educational process as decisions were based on the straightforward application of universal principles. She also considered that the issue of fit and proper was separate from the educational endeavour.

While some nurse educators, including the head of nursing, considered the student's actions had identified her as not being fit and proper for the nursing profession, the programme leader was quite clear that her fraudulent act was not valid grounds for stopping her completing her education. The right to education came first:

If we allow her back into the programme to complete her bachelor of nursing ... that didn't actually mean she was necessarily going to become a registered nurse. What it meant was that we were allowing her educationally to complete her study. And I'm of the view we don't have any valid grounds to stop somebody completing their bachelor's degree based on a (fraudulent act)... The difficulty, then, comes to whether we sign her off as a fit and proper person when it comes to State (examination). I'm glad that's not my responsibility. (Case A: PL)

The dean in Case A appeared to disagree with the programme leader's view of education for its own sake, and had a more pragmatic approach. She discussed how they were educating students for a profession and so:

It's not just about giving the student an opportunity to get an education ... it's also about ensuring that we graduate students who are going to be competent professionals, in whatever discipline they have chosen. (Case A: Dean)

The dean considered that, because of the practise of nursing, the needs of the profession did sometimes come before the rights of the student. However, this was seriously challenged in the decision-making process. The dean felt some discomfort regarding the education and professional nursing tensions as the educational needs of students, from non-practice disciplines, always took priority and so this could be interpreted as being unfair for nursing students. According to the dean, the NCNZ or some other authority should resolve this situation by issuing guidelines regarding managing students, and public safety, within education programmes.

In Case A the dean, the programme leader, the head of school and the head of nursing all at some point referred to the need for the NCNZ to produce some parameters, or guidelines, to assist in making decisions. In many respects the situation was presented in Case A as though the educational organisation had no jurisdiction regarding the unsafe student, within the nurse education context, and that this was a source of frustration. If this conclusion is correct, then this is an extremely worrying trend given that the NCNZ is clear that it has no jurisdiction over students on education programmes (Drake & Stokes, 2004). While this position of the NCNZ was understood, in Case A it was not considered adequate or helpful. To further complicate the situation, the programme leader became quite indignant that the NZNC could ask him, in his capacity as a registered nurse rather than as an educator, to monitor a student with respect to safety issues:

And then if we do have somebody who makes an error during the programme, or has got a conviction, they [NCNZ] then want to know what *we're* going to put in place to monitor them! And my thought is why should we have to? Because that is not an educational issue. That is not an educational issue - it is a professional issue. Therefore, it should be the profession that's putting that into place. And of course I'm a member of the profession, but I'm actually paid by this institution! (exasperated laughter) (Case A: PL)

This excerpt highlights not only the tensions between education and nursing as separate professions, but also extremely important questions regarding responsibility for the management of unsafe nursing students in the tertiary education context. The third-year co-ordinator did not have the same level of ambiguity regarding her professional priorities. The student returning to the programme also meant she returned to practice and this was unacceptable. Duty to the profession came first (see page 157).

However, in Case A, individuals did not have decision-making authority regarding the progress of students on the programme, committees did. Only on completion of the programme was it possible for the head of nursing to take action regarding signing-off a student as fit and proper and of good character for the nursing profession. However, in Case A, even this process was not straightforward as the decision by the head of nursing to not sign-off the student for registration was over-turned by the NCNZ on the student's appeal.

Moral Voices

In Case A, the moral reasoning described by participants demonstrated that some had more difficulty than others in finding acceptable solutions to the dilemma posed by the student. This immediately begs the question as to why this should be the case. The relationships that the third-year co-ordinator and the programme leader had developed with the student in Case A clearly reflect the moral voice of care and responsibility as described by Gilligan (1982). They demonstrated "a mode of thinking that was contextual and narrative" (Gilligan, 1982, p.19), and a reluctance to judge, as did other members of the nursing team. The concern for the student's career, the liking and admiration of the student all point to not wishing to hurt the student. However, it could be argued here that the student had broken the web of relationship by her fraudulent act, and that this communicated a betrayal of trust. The situation was then exposed as unsafe; the personal integrity of the nurse educators was challenged. They then needed to respond in ways that ensured they remained true to themselves. These actions reflect the conflict between self and other that Gilligan found in the moral voice of women (1982, p.73).

The care voice of the third-year co-ordinator contrasted with that of the head of school, and the head of nursing. The latter's particular moral frameworks appeared more formal and abstract, less distracted by the context and the emotions, and emphasised separation, not connection. The head of school, and the head of nursing, also constructed the dilemma as one posing moral and ethical dilemmas, but the emphasis was on broken rules, and making the 'right decision', echoing Gilligan's claim that, in the justice and rights moral voice, "the conception of morality as fairness ties moral development to the understanding of rights and rules" (1982, p.19).

In discussing swaying, participants were not questioning whether their moral reasoning regarding the student, based on their feelings and emotions, was true; but whether it was right. The tensions they expressed appeared to be between being subjective and objective, and emotional and rational: swaying between the care voice and the justice voice. The justice voice is a principle-based moral voice, which can produce the right answers, the right thing to do. This moral voice reflects the dominant paradigm of positivism, and the value-neutral, objective, rational, observer. The head of nursing, and the head of school, in voicing their opinions, claimed both the truth of the matter, and what was right (Hekman, 1995).

The swaying in Case A is reminiscent of Gilligan's (1987) analogy with the Gestalt duck/rabbit picture whereby it is possible to see each image separately, but impossible to hold both images simultaneously. As organising frameworks Gilligan's two moral voices lead to different ways of imagining the self as a moral agent and, subsequently, differences in moral reasoning and making decisions. Certainly there is much angst described by the head of nursing regarding others, and the third-year co-ordinator regarding herself, concerning which moral framework to adopt in order to reach the right conclusion, to reach the right decision. On the surface Friedman's notion of an integrated moral framework would appear to be one way of resolving the problem. However, I would argue, there are contradictions inherent in the dilemma, and these are exposed by the different voices, as different discourses, that give rise to them. This is explored further in Chapter Nine.

The dean appeared to understand the moral dilemmas faced by the nurse educators in Case A, even though she was not a healthcare professional herself. However, she did not use her position within the organisation to try and address these concerns, but instead presented herself as powerless to initiate change. She consistently appealed to outside agencies to take responsibility for processes that others, such as the head of school and the head of nursing, located as internal to the organisation. Her moral voice appeared to be one of care and responsibility, but she did not take responsibility as she considered that she had no control, or choice. The dean presents as a “self uncertain of its strength, unwilling to deal with choice, and avoiding confrontation” (Gilligan, 1982, p.69). As such, the dean is unable to provide support for the nurse educators within the context of the tertiary education management structures or address their concerns regarding public, and student, safety. However, the dean’s perceived lack of control and choice is not necessarily an illusion within the quasi judicial-legal context of this education organisation. The voice of care and responsibility is frequently made invisible, or silenced, when confronted by the dominant, hegemonic voice of justice and rights.

The registrar in Case A articulated a strong moral voice of justice and rights. Not only had she incorporated the principles of the organisation into her way of thinking she voiced her opinion that standards should never be compromised by partiality or special circumstances. In many respects the dominant judicial-legal discourse of this organisation was portrayed by the moral voice of the registrar. Her unambiguous, black and white approach to the business of education was born of a confidence, I would argue, provided by the dominant discourse. Her subjectivity was produced by this moral language game; in playing the justice and rights language game she was necessarily asserting the truth of the matter (Hekman, 1995).

Moral Selves and Moral Language Games

Even though repeated appeals to public safety provided one discourse with which to try and make that particular point, those nurse educators who spoke with the moral voice of care and responsibility in Case A struggled with the dominant voice of positivism within the educational context, and the need to use the language of science, and justice

and rights, to prove their case, one way or another. There is an irony here, whereby Mahara (1998) argues nursing needed to abandon the attempt to legitimate itself as a discipline by adhering to the received view of positivist science; meanwhile I would argue this 'procrustean bed' forms part of the platform upon which education administration firmly rests. Hekman (1995) considers that Gilligan's findings challenge the rational, abstract, autonomous constitutor of knowledge, of Enlightenment man. All the participants in Case A except the registrar, who was not part of the management process, spent considerable energy in attempting to find the right answer to the problems they were faced with, in true modernist fashion. There was an assumption that there was a right and, therefore, a wrong, solution, and people were anxious to make the right decisions for the student, themselves and the organisation. As seen above, participants in Case A clung to the concept of Hekman's "disembodied knower who constitutes universal moral principles"(1995, p.31). Indeed, certain participants spent an inordinate amount of energy attempting to reach consensus, or have their views legitimated by outside agencies (as authorities) and ethical experts, appealing to the discourse of justice.

Gilligan argues that different voices are revealed when the relationships between selves and others are exposed in dilemmas of conflicting commitments, and in which identity and intimacy converge. These different voices speak of different truths – one of attachment and one of separation – and are carried by different modes of language and thought (1982, p.174). It is here that Hekman's arguments, that the criteria of judgment within any discursive system are a function of the internally constituted rules of that system, and that moral voices, as the product of moral discourses, are useful. Hekman challenges both the scientific method, and traditional moral theory, with her discursive account of knowledge. It could be argued here that in Case A the different truths, the different right answers, articulated by the participants, are discursively constituted by the different discourses of education and nursing. Furthermore, these different discourses occupy different epistemological spaces, and so are incompatible, not complimentary. The swaying and moving back and forth, from one right answer to another possible right answer, can now be understood in a different way, and the different moral voices, and the contradictions that lie within the moral dilemmas, made visible. Using this analysis, the different moral voices need no longer be denied. As Minow (1990) points out, denying the multiplicity of moral voices did not, in any event,

make them go away. In Case A, participants re-lived their moral dilemmas in the interviews demonstrating how their different, competing and incompatible moral voices had not gone away.

In taking the postmodern turn, Hekman looks at the re-defined discursive subject. Hekman argues that identity co-exists with difference, and that different moral discourses define different kinds of moral agencies, resulting in different types of action. In Case A, the programme leader explained how he had moved away from caring towards a tougher, more objective way of thinking. However, his actions betrayed his rhetoric in the writing of empathetic letters to the student. He also demonstrated the contradictions between the discourses of education and nursing arguing on the one hand the importance of public safety, using this particular discourse of nursing, and the right of the student in this case to continue with her degree, using the discourse of education.

It can be seen in Case A that moral voices and moral selves are inseparable, as Gilligan and Hekman, argue. Here, the moral language games of the dean, the registrar, the programme leader, and others, were central to the constitution of themselves as subjects. They were aware that not all shared their particular moral view of the situation. However, when each asserted their moral judgments they did so as though asserting the truth of the matter (Hekman, 1995, p. 160). Of importance for this thesis is the recognition that moral voices are acquired from the contexts in which we live and work, and they vary according to class, gender and race. These elements constitute our subjectivity and so, whilst we might perceive that it is *my* voice, and my truth, it is always *our* voice. In Case A, there were several moral language games being played, including those of care and responsibility, and justice and rights. In addition, the professional voices of nursing and education were present, producing professional discourses, and contributing to the diversity and difference within the context of the educational organisation.

Summary

The presence of different moral voices is clearly demonstrated by participants in Case A. The swaying, exhibited in moral reasoning, can be seen as reflecting the

contradictions inherent within the moral dilemmas that the nurse educators were faced with. Using Gilligan's analysis, the nurse educators were being forced to choose between two evils – one of possibly hurting the student and one of not protecting public safety. Alternatively, it could be argued that nurse educators were choosing between not hurting the student, and covering their butts, that is, not getting hurt themselves, not getting burnt. The need to protect themselves within the threatening context of the educational structures and processes reflects the arguments put forward by Hunt (1994b) and Yarling and McElmurry (1986). They describe a conflict over the rights of individuals and obligations to self, others and organisations. This finding also relates to Hart's (1998) comment about how the notion that the health and safety of the community should come before the rights of the student as being considered almost heretical, within the educational context.

It could be argued that, in one sense, the moral voice of care and responsibility is silenced by the dominant moral voice of rights and justice in Case A. The organisational structures and processes created a quasi judicial-legal type environment whereby the strength of an argument rested on the ability to present it in a manner acceptable within the so-called rules. Much energy was spent trying to obey the rules, and follow procedure, in the interests of fairness and justice. Nurse educators in Case A described their emotions and feelings as irritating and distracting. Feelings were not facts; emotions lead to subjectivity, and paved the way for biased and discriminating practise, and value-laden judgments. The nurse educators attempted to correct what they perceived as personal, subjective opinions, by producing the required objective, measurable evidence, just as Duke (1996) and Mahara (1998) found in their studies. The abstract, principle-based decision-making of the 'process people' reflected the wider context of the educational organisation, with its emphasis on honesty, justice, fairness and respect. However, it could be argued that this approach provided the structure, and the process, but the outcome was not necessarily right, or just, or fair.

CHAPTER SEVEN

CASE B

In Case B, the nurse educators and the clinical agency had assessed the student as being unsafe. The organisational process involved inviting the student to respond to the case against him either in person or in writing, to the CEO or registrar. The student did not employ lawyers, or present medical evidence, to challenge the assessment. Instead, he wrote a lengthy reply to the CEO in response to the head of school's report. The situation was then investigated and, once the facts had been confirmed, and due process and natural justice assured, the student was written a letter informing him of the cancellation of his enrolment.

The student in Case B did not raise any specific moral dilemmas for any of the participants. This finding in itself raised the issue of how and why, in this case, the management of the student was so clear-cut and straightforward. A strong voice of justice and rights emerged from the interviews with the nurse educators, and the voice of care, as described by Gilligan (1982), was identified in the interviews with the dean and registrar. Considerable tensions were identified between the two professions of nursing and education and this issue dominated in Case B. This chapter is divided into two main sections. The first section looks at how failing students in general are managed and the second section explores the decision-making process. The different discourses of education and nursing are identified and conflicts between them made visible. This discussion is drawn together with an analysis of the different moral voices, including those of the professions of nursing and education, and the identification of different moral selves and different moral language games.

Managing the Case

In Case B, four people were interviewed, all of whom had been directly involved in the management of one student. In the course of the interviews, it was clear that no-one else had participated in the management process, and this finding reflected the organisational structures and processes whereby responsibility for decision-making was

vested in specific individual positions and roles. There was no mention of committees, appeal panels, team meetings, or any gathering of opinions, or reaching consensus. Lines of communication and decision-making were clear and set out in the organisation's documentation such as the student handbook.

All four participants had refreshed their memories of the case of the specific student used as the focus for the research. However, while each participant had possession of the student's personal file at interview, their responses tended towards the general, rather than the particular, using examples of other students and organisations to illustrate their experiences.

This section explores how the failure to use the 'F' word created problems for organisations and students, and was considered an injustice. The way in which nurse educators helped to expedite the management process by making the 'hard calls', and avoiding 'going soft', is described. As will be seen, there was a strong moral voice of justice and rights underlying this activity.

Making the Case

In Case B, the identification of the student as unsafe was relatively easy to ascertain. The third-year co-ordinator had kept good records; the clinical nurses had been articulate, willing and able to voice and document their concerns regarding the student's behaviour. The assessment tools measured desired behaviour and were used rigorously.

The third-year co-ordinator described how she and the head of school initially met with the student, following his removal from the clinical placement. They explained his rights to him, including his right of appeal, and the NCNZ regulation regarding the mandatory withdrawal of a student following failure of a second enrolment on a practice paper. The head of school described how she was unexpectedly challenged in the interview:

He just didn't really agree with it (his clinical assessment). So it was - I was actually sitting in the interview with him and I remember thinking, "My God what do I do now?" Because he's not agreeing with anything, and he can't go back to clinical because they've said they can't have him, and I don't know what

to do! I mean normally in that situation the student is accepting of it and you sort of talk through the options. (Case B: HOS)

Even though the interview with the student did not go quite according to plan, the head of school was confident in her assessment that the student needed to be withdrawn from the clinical area, and she had the authority to suspend him, which she did. She then followed through the process by writing a report, and making the recommendation to the CEO to withdraw the student. From her perspective, the situation presented as a clear-cut case of unsafe nursing practise. The dean considered the head of school had made “the right call” at the time:

I guess what I would say is that if I wasn't satisfied that the head of school's request to the Chief Executive was appropriate I could have interfered from that perspective and said “hang on a second, let's back off and look at this,” but I did talk to all the people involved fairly early on in the piece, and I was satisfied that she'd made the right call. She brought me into it as fast as she could, given the circumstances. You know, you can't run a debating society around this kind of thing first - you've got to pull the student instantly and then consider the consequences down the track. (Case B: Dean)

In this case, it was the dean who undertook the investigation, checked the facts, and ensured that due process had been followed. He had not been directly involved in making decisions, and described himself as “relatively neutral.” Together with the registrar, the dean addressed each of the points raised in the student's written response to the head of school's report, and her recommendation to terminate his enrolment. The investigation involved interviewing two members of staff in the school of nursing, and the clinical staff on the student placement. The clinical staff, according to the dean, “simply confirmed what I had originally believed - that professional judgment had been applied, not anything else.” The management of this student was presented as a textbook case of applying the organisational policies and procedures in a clear and unambiguous manner (Chasens et al., 2000; Paterson & Lane, 2000; Smith et al., 2001). However, the dean, in his discussion of hypothetical dilemmas, described a process that entailed somewhat more than the application of rules and regulations, that is, the use of gut feelings to arrive at answers (see Chapter Five). The dean also talked of the difficulty in trying to “make the right judgment call”:

There's always some doubt in my own ability to make the right judgment call. And do I back the judgment of the staff or do I back the issues that the student raises? And sometimes ... it's one of those things where it's a no-win situation sometimes. (Case B: Dean)

Here the dean recognises that often someone was going to get hurt and that he had a part in this process. His ambiguity regarding his need to make decisions was further illustrated when he talked of the need for self-questioning:

But at the end of the day I don't know whether I am part of defending the professions or whether I'm looking after the organisation. I really don't know. And I think if I ever stop worrying about it, it will be time I went to look for another job because I'll have become a very dangerous person. You know self-questioning is the only thing that keeps us safe in these ways because the reality is, I've got a ridiculous degree of freedom of power. (Case B: Dean)

The dean here introduces the notion of self-reflection and the absence of this in people as being potentially "very dangerous." In many respects this echoes the discussion regarding the lack of insight and moral sensitivity found in the behaviour of unsafe students (see Chapter Five). The dean admitted as well that he worried about his role and responsibilities "enough to stay safe," but not enough to wreck his life having found a happy medium that he could live with.

Difficulties identified by the dean and the registrar in Case B concerned the welfare of students in general, and the individual responsibilities they both held regarding making decisions within the organisation. The dean described, on several occasions, how he struggled with his own assessment and evaluation of individual situations, and the possible consequences for students. He was extremely aware that his judgments had consequences for other people, and it worried him that he was "meddling with people's lives." When asked specifically if he experienced any moral dilemmas, by virtue of his role, he replied:

There's the lack of belief, the lack of trust in my own judgment. I mean - because every time I make a judgment call in this office it has a massive impact on somebody's life. And who the hell am I to do that? It's tough. You know, sometimes you get a tremendously simple thing comes in here - like a student in stage two has been nicked doing a bit of plagiarism. Well, simple, "Sorry love, but you've lost six months." But it isn't that - would you like to lose six months of your life? How well was the person educated into, "You shouldn't do this?"

How serious is the offence - especially ... still in year one of a degree? And yet at the same time how do we get the message out there to everybody if we don't do it? (Case B: Dean)

In this excerpt it appears that the dean exhibits what Gilligan (1982) describes as a reluctance to judge, and the voice of care and responsibility, found in her female participants. In his hypothetical scenario, there is acknowledgement of potential cost to the student, together with balancing the weight of the offence in this context. The dean expresses empathy and takes seriously his responsibility to make judgments regarding the apparently "tremendously simple" problem of plagiarism. He presents himself as an autonomous, independent moral agent, emphasising the need for fairness and equity for the larger student population. In this extract, there is tension between the individual circumstances of the student and the educational context, underpinned by rules (plagiarism) and perceptions of fairness. As such, the dean appears to be swaying between the moral voices of care and justice.

The dean talked of having a "lack of belief" and a "lack of trust" in his judgment and recognised that it was important to come to terms with this to maintain personal integrity:

[You have to] trust in your own professional judgment, your integrity, because to be able to say, "I believe this person should not be given any further opportunities to pursue this profession" you've got to believe that you're making a good call. It's a - I don't know how long it takes to - I don't think I've quite got there yet. I struggle every time I get to that point. (Case B: Dean)

Here, the dean describes his moral reasoning and how he attempts to maintain his personal integrity when making judgments, echoing Gilligan's (1982) emphasis on the need for those with the voice of care and responsibility to do just this.

The registrar in Case B was concerned that students, specifically in his experience the "well-intentioned, older family man," may spend time and money on their education only to fail at the end of their endeavour. However, his sympathies did not extend to condoning unsafe behaviour:

In terms of the agony - for me it's the notion that someone has put in ... that he's taken three years out of his life and he's paid three years worth of fees to

make a career change, or to develop this career, and it's all come to nought. And that's not saying it's not the right decision - I mean I don't want someone nursing me simply because he's some older guy - do you know what I mean? (Case B: Registrar)

Like the dean, the registrar is sympathetic to the student and the personal cost of failure. Partiality, as discussed by Friedman (1993), was not argued for the student in this example. The registrar, while sympathetic, was not prepared to be the recipient of possible unsafe practice just because the student was "some older guy." Here, the registrar's right to safe care over-ruled the student's right to practise on him, as part of an educational programme. The issue was one of competing rights, those of the student to receive education and the registrar to receive safe nursing care.

The dean in Case B, like the registrar, was also conscious of the existence of special circumstances, and the way in which these could be considered:

Because it is not just failing a paper, it's six months less earning power, and six months more student loan. Is it more significant for the student who's a solo mum with three kids than it is for - than the son or daughter of a rich lawyer and who lives in [affluent suburb]? Should I even take that into account? How do you not take it into account? It's a really, really difficult thing. And I guess most of the time I just put it straight out of my head and say I'm defending ... the academic standards of the organisation; I'm defending the right of every student who graduates to know that everybody else that graduates has also got there the proper way. Isn't that a dreadful, easy little rationalisation? (Case B: Dean)

Again, as in the hypothetical case of plagiarism, the dean identified a situation as being somewhat more complex than simply applying the rules and regulations, regardless of the wider context. His concern for students who may be disadvantaged was apparent and his description of his moral reasoning as "a dreadful, easy little rationalisation" demonstrated a tension between the voice of justice and rights and care and responsibility. In taking into consideration the student's personal circumstances, the dean also demonstrated contextual relativism as described by Gilligan (1982) and Friedman (1993). In the end the dean resorted to the principles of equity and fairness, using the voice of justice and rights, to justify his action, albeit reluctantly.

The registrar described his approach to his role, including the management of students, as follows:

It's more that 'fairness without fear or favour' approach from my point of view. And there have been times when that has got up the nose of either my boss, or faculty, or school staff. Don't get me wrong - I work very closely with them and am very happy with them - but every now and again they obviously think that I'm being - that I'm bending over backwards for this student. Now these days I just say, "Hold on a moment. There are seven key strategic directives starting with 'student focus'!" So you know they accept that and we have a bit of a chuckle about it. (Case B: Registrar)

Here, the registrar appeared to appeal to the principle of fairness and, unlike the dean, was happy to refer to the organisation's formal, strategic directives to provide justification for his approach. As Johnstone (1994a) comments, the actual actors in a given situation have enormous bearing on determining responsibility. In traditional moral philosophy, when the individual is abstracted, and the situation decontextualised, then responsibility becomes diffuse. In these excerpts, the dean and registrar describe the students in hypothetical scenarios and so they do not know the students and, therefore, do not have tacit knowledge of them (Friedman, 1993). These hypothetical students and their situations are discussed in general, and not in particular.

Not Using the 'F' Word

The head of school described her early experiences as both a student and a teacher in nurse education and how these influenced her subsequent practice as a nurse educator. She recalled how two students on her own nursing programme were continually allowed to repeat modules, but eventually failed the NCNZ State examination three times leaving them with large debts, no qualifications and crushed self-esteem:

And as students we knew that their knowledge was not up to speed, and we absolutely knew that. You know, like, we didn't even know how many opportunities they were being given to repeat assessments, but it would just go on and on and on. At the end of the year they'd still be doing assessments that we'd all passed in term one ... And I guess like, I was only nineteen, but I felt that that was just so wrong, that we all knew as students that they weren't up to speed. (Case B: HOS)

She also recalled how at that time the clinical staff made excuses for not failing students, giving them “the benefit of the doubt” (Boley & Whitney, 2003; Smith et al., 2001). This behaviour frequently led to more problems regarding student performance, rather than success. The head of school reported that she was determined, when she first entered nurse education, that she would not behave in this manner, but in the beginning, she was not in control of the situation:

But then when I went to work as an educator, I guess my own student experience came back through. And when I started in education it was very much a philosophy of ‘we must pass students’ and when - in my first year teaching - more of my students failed ...we had to question why all mine failed the exam and, for the other person, only one or two failed. And I got dragged through the coals for that and like - you know - it was almost like, “Well, what haven’t I taught them?” It was my responsibility. And it wasn’t until later that I found out it was because I hadn’t told them what was in the damned exam - that’s why they hadn’t passed it! I hadn’t given them a list of basically every sub-topic they’d be tested on. So they actually probably did quite well! And I just would not have dreamed of doing that - but that was the normal practice. (Case B: HOS)

In this scenario, the head of school rejected the “normal practice” of spoon-feeding students and she refused to take responsibility for student learning. Instead, she gave the students credit for having succeeded when their expectations of being given examination information in advance had not been met.

The head of school described how, in one particular school of nursing in which she had worked as a lecturer, there had been a real reluctance to use the ‘F’ word:

I remember being in an interview with a student ... and the head of school. And this student had failed her psychology exam three times ... and the student actually conducted herself extremely well because the head of school would not say, “You have failed.” She would not use the ‘F’ word. She just would not use it. And the student kept saying, because it was par for the course, “Can I have another chance?” And the head of school wouldn’t say, “No” [...] and I said, “Look, as far as I’m aware the regulations are you have to have passed everything from year one to move into year two and you haven’t. So I don’t see how you can move into year two.” And the student just sat back in her chair and she said, “Is that it then?” and I said, “Well, I suppose it is.” And we both looked at the head of school, whose chin was on her chest as though anyone could dare to be so direct, and so she just sort of shrugged her shoulders. And the student was absolutely fine about having failed. And presumably she moved on and had a happy life doing something that suited her better. (Case B: HOS)

The head of school was not afraid to use the 'F' word. She was confident of applying the rules and the regulations, and allowing the student to experience the consequences of her poor performance. She also considered that the honest approach paid off; the student did not become litigious, or dangerous or life threatening (see Rooney, 2002; Smallwood, 2002).

The third-year co-ordinator described her own philosophical shift when she left nursing to become a nurse educator. She reported how she had missed nursing initially, but associated this with a "need to be needed" attitude. Since entering nurse education, she had revised her core values:

When I think back to when I was training it was really clear it was the need to be needed, initially. Right? And the wanting to care - and all that stuff. And I came into education and I then had to do quite a shift, because that was my core value. It sure as heck wasn't going to be best for education - you know - the need to be needed! Not okay. And it's not going to happen. So, I've done a lot of work over the years working through that ... because education is different. It is quite different. And as times' gone by I've changed my philosophy quite a bit I think. So probably the underlying values will have remained much the same with things like integrity, you know, always 'working with' - like those things are always there. It's just that thing about needing to be needed has gone - I ditched that one. Worked through it. (Case B: 3rd YC)

In Case B, there was no evidence of either the 'need to be needed' by any of the participants, or enabling behaviour, frequently associated with this (see Duke, 1996; Sumsion, 2000). The interviews with the head of school and third-year co-ordinator demonstrated how the stories we tell about ourselves, the interaction of experiences and thoughts, and the language we use reveal our moral voices (Gilligan, 1982). Here the head of school revealed a strong moral voice of justice and rights, and the third-year co-ordinator "ditched" needing to be needed, and "wanting to care."

The third-year co-ordinator also reported how some first-year lecturers had commented one time that a failing third-year student should have failed in year one, and how she was frustrated by the fact that they were allowed to "stagger through":

This is a student who - to everybody I say about - says, "Oh yeah! We should have failed her in year one." And it's like well, "Why didn't you? Please, you

should have!” She has staggered through this course ... and has taken nearly the five years to get this far, finally gets to me by dint of continually repeating along the way, and then this happens - which was almost predictable as hell. So it’s putting her out there literally to fail, but doing the damage on the way. So that one I’m really uncomfortable with. (Case B: 3rd YC)

It is not clear here whether “the damage on the way” was to the student, or to others, or to all. However, there was concern about the detrimental consequences for the student, and recognition of the way in which the management of the student’s performance had contributed to these. In this case, the student was the victim of the failure to apply the rules and maintain standards (see Boley & Whitney, 2003; Watson & Harris cited in Duffy, 2004a; Smith et al., 2001) and the nurse educators were portrayed as dishonest and irresponsible.

The head of school went on to describe how she was eventually able to implement a different philosophy when she worked with a group of like-minded educators:

There were a group of us who had a very, very strong practice focus and what we would observe was behaviours, knowledge deficits, or whatever, that were of concern in theory papers, manifest in clinical papers. And, ethically we really talked about it, worked through as a group. We felt that it was far better that those issues were addressed and students were given - or confronted really - and students were given the opportunity to change, or to extend their knowledge, or do whatever they needed to do to fill that gap while they were in year one rather than that they progress to year two or three and things got worse and worse. So we started failing students in year one and we were hard-nosed. (Case B: HOS)

This example illustrates how the head of school, as a member of a group who had discussed the ethics and who provided support for each other, helped to implement a shared educational approach. The students were not rescued, or enabled, but instead given an opportunity to change, learn and “fill that gap” with the necessary knowledge. The head of school went on to describe how students could gain considerable benefit from being required to repeat a paper, rather than being “let through.” Instead of being new graduates who struggled, these students were considered better placed to face the demands as registered nurses, particularly regarding placing their patients, or themselves, at risk.

In Case B, the head of school and third-year co-ordinator presented as objective, detached and rational regarding the evaluation of the student's progress and performance (see also Chapter Five). The particular descriptions of the specific student behaviour and attitudes that caused concern in Case B were very similar to those described by Smith et al., (2001) and Rittman and Osburn (1995). However, in Case B, the nurse educators and clinical agency experienced no problems in failing the student on the basis of the evidence of his performance. There was no fear of litigation (Boley & Whitney, 2003), no anxiety and no uncertainty (Smith et al., 2001).

In Case B, the nurse educators emphasised the potential, and actual, harm done to students by not failing them. If students were allowed to continue on the programme, even though they were under-performing, this could be at huge personal and financial cost to them, and they could still fail (see Poorman et al., 2002). In addition, in the case of a failure to fail, students were not able to take advantage of any opportunity to learn and grow from their failure, or of repeating work that could put them in a "good space" as registered nurses (see also Watson & Harris, 1999, cited in Duffy 2004). In Case B, the failure to fail was considered as dishonest, unfair and discriminatory, a finding by students themselves in the work of Poorman et al. (2002). In many respects the failure to use the 'F' word constituted a serious injustice for the nurse educators in Case B.

Finally, the head of school explained how it was important to not let students withdraw from modules, but to actually fail them. Failing the students gave them an opportunity to explore why they had failed, and to address their learning needs. It had also been observed that students had used the mechanism of withdrawal to avoid having a fail mark recorded on their transcript, hoping that they would succeed on the subsequent enrolment. However, because underlying difficulties had not been addressed, students frequently failed the second enrolment. As a response, the head of school had introduced a system of probation for students who failed or withdrew from modules. The probationary process identified specific learning needs, and the necessary resources and support were then made available. The third-year co-ordinator described how the probationary period created a situation with students whereby she was able to "set them up to pass them." This activity echoes the findings of Rittman and Osburn (1995) and the theme of 'creating possibilities for success', seen as a caring practise of preceptors in the clinical area. However, even though the third-year co-ordinator referred to

“keeping a relationship with the student,” it appeared to be more reminiscent of a learning contract, and contained none of the second theme of ‘knowing the student’ found in Rittman and Osburn’s (1995) study. Neither the head of school nor the third-year co-ordinator articulated the moral voice of care and responsibility as described by Gilligan (1982). They did not talk of having tacit knowledge of the student, and did not discuss a relationship involving care and connection.

The registrar confirmed the head of school’s finding regarding students’ withdrawals from modules. He reported that he had observed a pattern of nursing students having early withdrawals from the clinical area, followed by reinstatement, and then it “going wrong at the end just the same.” The head of school and the registrar were aware of the human cost of both the rescuing behaviour and the failure to fail. They were aware of the dishonesty involved in creating a false sense of hope and unrealistic expectations on the part of the student (Poorman et al., 2002).

In Case B, the head of school and the third year co-ordinator presented as having strong, individualistic concepts of persons. They had unambiguous opinions regarding managing the failing student, informed by personal experiences. They demonstrated a clear sense of responsibility and accountability regarding their individual roles and were averse to any enabling or rescuing behaviour that deprived a student of the opportunity to learn and grow from their mistakes, and to develop the skills to become safe practising nurses. They manifested a strong moral voice of justice and rights.

Decision-Making

In their interviews the dean and the registrar described how they took very seriously their responsibilities in relation to their roles as advisers and decision-makers. They expressed self-doubt about their moral reasoning processes, and the possible consequences of their actions. Although there was swaying back and forth between the two voices of care and justice they presented as making individual, autonomous judgments. In general they did not seek validation or consensus with others, but gathered the information and facts needed in order to make decisions with confidence, and to maintain standards (Chasens et al., 2000). Specifically, in Case B, the dean and

registrar were responsible for ensuring due process and natural justice had been applied and they were not responsible for making direct decisions regarding student failure or success. It was the head of school who made those decisions; and the CEO of the educational organisation had the authority to withdraw a student from a programme.

Making the Hard Calls, Being Tough and Not Going Soft

The head of school consistently used the adjective “hard” when referring to her moral reasoning and her approach to decision-making. She described herself as being “hard-nosed,” and as making “hard calls.” When interviewing prospective staff members for the school of nursing, she specifically checked their willingness to make the hard calls:

When I interview new staff we actually put questions in so that we can get a feel for are they going to be able to make the hard calls. Because it can be incredibly hard. You’ve got a student who’s actually a nice person, that you can see some very good qualities, and they may be having a particularly difficult time in their own life, and they’re almost there. And it’s quite a hard call when you know what’s going on for that person to say, “No. You have to spend money. You have to go back six months” or “No. You have failed and you can’t continue.” They’re not necessarily bad people - or it may just be the wrong time for them - but you have to make that call. (Case B: HOS)

Here, there was no place for personal agonising about making a hard decision. There was acknowledgement of the emotional and financial hurt, which might be caused to the student, but this was secondary to the student achieving the necessary standard. In this hypothetical and general description, there was no room for the student to manoeuvre, no investigation as to why it might be “the wrong time,” or what might be needed to make it a ‘right time’. The wider context of the student’s personal circumstances, “the particularly difficult time,” and the fact that the student may be a “nice person,” did not lead to contextual relativism or partiality (Friedman, 1993; Gilligan, 1982) or any ‘it depends’ particular consideration.

In Case B, the head of school was surprised to discover, from notes made in the student file, that the CEO, dean and registrar had not necessarily agreed with her assessment, and subsequent recommendation, even though they had supported this. Instead, they

considered the school had been “very harsh” in their treatment of the student. The head of school was not defensive regarding the written comments, but reflective:

In fact I thought that this case went really well because they did uphold ... the decision to suspend, the extension of the suspension, and then the decision to cancel enrolment. So ... I did feel that, with that being the end point, that they'd agreed with nursing. When I actually see the notes they weren't necessarily agreeing with us - they were quite prepared to say nursing is very harsh on these matters. And so basically we need to be careful here, you know, that we're not being unfair. (Case B: HOS)

The head of school was concerned about fairness, and justice, using these principles to guide decision-making, and did not take the comments personally. The dean described the nurse educators as having the ability to “not go really soft” on students, and in doing so confirmed the self-perception of the head of school regarding making the hard calls:

The funny thing is nurses are actually better than a lot of other people at that rationalisation, of applying the legal bit, and nothing else. And I don't know what - why that is - but I suspect that part of that is - one of the aspects of the nursing profession is having to deal with the bad situations, the people that die and so on and being able to move on from that and remove yourself from that. And in some ways I wonder if that does help our staff to have the necessary hardness to not go really soft on the students, to apply the rules. And some of them apply them a little bit automatically and a little bit harshly but I think that's a lot better than ... (Case B: Dean)

It is interesting here that in this hypothetical nursing situation the nurses, and nurse educators, are portrayed as acting in very un-nurse like ways. There is no mention of any nursing, or caring relationship; no nurturing, or any giving of comfort to the people that die. Rather, nurses are portrayed as being detached, and disconnected, strategies used to protect themselves rather than any caring of another. In Case B, the dean considered nurse educators had become hard by virtue of their nursing background. However, the nurse educators considered that their attitudes and behaviour had been developed from their experiences, as students and lecturers, of past educational management practices perceived as unfair, dishonest and damaging to the student. For the nurse educators, the explanation lay not in their history of nursing, but in their experience and history of education.

The dean was anxious to emphasise that, as a non-member of the profession, he was not in a position to comment if his perception of 'harshness' was valid. The registrar in Case B also remarked on the financial and emotional cost to the failing students and was sympathetic to this. However, he tempered this with the comment that he thought the school of nursing, while being tougher than he imagined he would be, were probably right in their assessment. The registrar considered that the school of nursing was also reasonable:

I tend to rely on the wisdom, the care, but also the compassion, of the nursing staff because I know that there are other cases where they've given the person the benefit of the doubt - not over clinical safety - but over the more academic side of things ... that they've been reasonable. There's been a good reason for not attending for this assessment or for not getting an assignment in on time - that sort of thing - so that they're not unreasonable. (Case B: Registrar)

In Case B, there was no swaying or shifting back and forth between two perspectives, two different moral voices, and no searching for the right answer by the nurse educators. They did not appear to manifest a confusion of judgment, a reluctance to judge, or an overwhelming concern with relationships and responsibilities, as found by Gilligan with her female participants (1982). Responsibility and authority for decision-making was vested in individual roles, and not committees or boards. There was, therefore, no need to convince colleagues or peers of individual opinions, or justify lines of moral reasoning. The third-year co-ordinator considered that this system worked and was pleased that individuals made decisions, especially as separate individuals were easier to convince than committees:

It seems to work. I think I'd rather that than a board - I don't know - or a committee. Committees tend to err in favour, if there's any doubts, and sometimes I think with these people it's - somebody has to make a commitment and it's easier if it's an individual than a committee I think. Then you can convince them (individuals) that this individual, this person, is not okay. (Case B: 3rd YC)

Here, there was no seeking consensus, no appealing to outside agencies, or higher authorities. As long as due process had been implemented, individual decisions stood, unless challenged successfully by a student. In Case B, nurse educators did not report being undermined, even if others did not share their view, or of being burnt, or of being roasted at appeal (Case A). There was no one else to make decisions except themselves,

and so there was no passing the buck, or sitting on the fence, or covering of butts. Instead the head of school and third-year co-ordinator exuded a confidence born of past experience, and operated within a context where individual judgments carried weight.

The third-year co-ordinator provided a clear description of how she had learned from past experience “to be very careful with building my case as such.” However, if her case “fell over” for some reason she perceived this as “a learning thing,” and she viewed appeals “as a systems thing, rather than a personal thing.” The head of school was somewhat phlegmatic when it came to appeals, and the involvement of the legal system:

Some of the students’ appeals sort of get extremely complex involving legal battles where the issue becomes one of law, not really one of justice, or whatever. It’s just one of law - who did what. And eventually - let’s face it - if the legal process goes on long enough someone will make a mistake. Someone will forget to dot an ‘i’ or cross a ‘t’ and suddenly there’s a process issuing that’s grounds for reinstatement or whatever. (Case B: HOS)

This opinion echoes that of the registrar in Case A who commented that, sooner or later, “you’re gonna trip yourself up somewhere with a procedural error” (Chapter Six, p.146). The head of school and third-year co-ordinator viewed the litigious process as an administrative exercise, nothing more or less (see Osinski, 2003; Paterson & Lane, 2000). There was no gnashing of teeth, no outbursts of emotion, no appeals for special consideration, no questions outside the application of rules, regulations and the law, no searching for the right answer. Instead there was an acceptance that there was a process to be followed, rules and regulations to implement fairly. Here the head of school recognised that the application of the due process of law did not necessarily lead to justice, but it could be argued that seeking justice before the law has little to do with morality (Hayes, 1995).

The head of school and third-year co-ordinator did not exhibit any of the moral indignation found in Case A. In Case B, there was an acceptance of the organisational structures, processes and procedures including the responsibility and authority to make decisions. Participants did not talk at length about their feelings or emotions, or report having invested energy or time in building personal relationships with students.

The nurse educators in Case B were described variously, by themselves and others, as hard-nosed, hard, harsh, tough, rule-bound and process driven, detached, removed, rational, reasonable, caring and compassionate. They did not report that they had developed strong relationships with students; they did, however, describe a focus on students, and students' professional development as nurses, via an educational programme. As nurse educators they implemented the rules and regulations of the educational process for the benefit of the students, and the nursing profession. Applying the rules in Case B was not the same as Hunt's (1994b) description of the "metaphysics of procedure." Applying the rules and making hard calls in this case avoided the failure to fail, and the sometimes painful and risky consequences of this for the student, their families and potential patients. As such, this activity could be described as 'principled caring' based on rational, objective moral reasoning (underpinned by moral principles such as fairness and equity), rather than caring based on attachment, connection and relationships.

The dean and registrar described themselves as student-focussed, but did not have the discipline-specific, professional perspective of the school of nursing. They perceived they were not so quick to make the hard calls, more inclined to give the benefit of the doubt, make exceptions to the rules, and consider the personal context of the student, and mitigating circumstances. They perceived the nurse educators as having a 'black and white' approach, whereas there were more grey areas in their own moral reasoning. The nurse educators did not align themselves with the moral discourse of caring, or of safety, or attempt to take the moral high ground. Rather, they perceived that they had taken the hard line, reflecting a possible discourse of accountability and responsibility, not one of exploitation or disempowerment as described by Traynor (1999). However, as described in the next section, the nurse educators had a particularly strong professional nursing discourse that produced tensions as it competed with the professional educational discourse of the dean, and the wider tertiary education context.

Two Hats - Nursing and Education

In Case B, the dean consistently stated how he not only had no jurisdiction regarding the nursing profession, but because he was not of that profession, he could not second-guess their professional judgments:

Essentially, on the information that I had, I believed that we were dealing with a situation where professional judgments had been made and I'm not of that profession. So, I take their perspective on it [...] I'm very, very aware - I think I've grown more aware as time's gone on - of the huge variety of professions that we have in this place; the huge variety of perspectives - the huge knowledge that is here and that must be used - which is, I guess, why I'm very careful not to tread on other people's professional patches. (Case B: Dean)

Initially, the dean appeared to demonstrate an understanding of, and respect for, the needs of the various professions in the faculty, including nursing. He emphasised the unique knowledge base of each discipline and the fact that professional judgments "carried weight":

You know you can't reduce a discipline to a set of competencies. You can't reduce it to a set of tick boxes. And you can't in any way compare one profession, and the knowledge that you've gained in one profession, to another profession in terms of making judgment calls. So, I simply have to come from the perspective that I am by definition a reasonably expert educator. I know my way around from the classroom through to management of an educational organisation, but I am in no way expert in any of the health professions and when - when the nominated professionals in those areas make a statement - their statement carries weight. (Case B: Dean)

The dean described his appreciation of the way in which the head of school and the third-year co-ordinator had documented the evidence, on which they based their professional judgments, in the management of the student in Case B. He also acknowledged the professional judgment of the clinical staff involved:

It's the person on the floor who makes the call as to when it's safe to leave someone alone (that) means that you also have to believe that when the person on the floor makes a call - that this person is dangerous under certain circumstances - their call is sound. And that is why, as I say, it wasn't my place to go and question their professional judgment - question the facts, yes - but question the professional judgment, no. (Case B: Dean)

The dean was quite clear that in undertaking the investigation in Case B he was not questioning nursing professional judgment. The investigation was to ensure that the educational procedures had been adhered to, and that due process had been followed. However, the head of school, and the third-year co-ordinator, did not differentiate between professional opinions and educational procedures in this instance, and

interpreted the investigation as a direct challenge to their professional judgment, rather than a check on process and procedure. In particular, the head of school was frustrated by the fact that non-healthcare professionals involved in the management process were unable to understand the significance of student behaviour and its appropriateness for nursing practice:

Our summative assessments are very behaviourally driven. So that's another issue when the dean, who is not a nurse, goes in to talk to clinical, about why this particular situation is an issue, or why this behaviour is of concern, they don't necessarily understand it in nursing terms, but ask quite simplistic questions about, you know, particular professional judgments on things. They may not recognise the significance of - that that student didn't understand something, or that they should have known this because this is the risk. The non-health professionals involved in that process can't make those links [...] So, to non-health professionals, who are looking at the series of observations and behaviours and consequences, they don't get it. They just don't get it. (Case B: HOS)

The third-year co-ordinator also commented on non-nurses' understanding of nursing as a profession. She described her frustration with the dean, and his seeming inability to grasp the significance of a student's behaviour for the nursing profession:

I think the process that we have set up ... one of the weaknesses with it just being the dean/CEO - is that neither are nurses and neither have a real sense for our professionalism and ... with the dean, bless his socks - you know - neat guy, but not a nurse. He doesn't see any issue with this chap at the beginning of the year with the (drug related behaviour). He actually couldn't see how totally, absolutely, inappropriate that was and especially as it was repeated behaviour ... He just couldn't see what we were on about. And it was like - no! There are bottom lines and you're going to have to respect our professionalism on this. (Case B: 3rd YC)

The third-year co-ordinator stated, because of the institution's focus on the student, that, "it can feel as though professionalism is put by the side and not acknowledged." It is interesting to note that in this discussion the nurse educators emphasised their professionalism. They did not resort to the discourse of safety or highlight their statutory obligations as registered nurses and their remit regarding public safety.

The head of school explained how the school had adopted the use of the term ‘professional judgment’ as this appeared to elicit a particularly respectful response as it seemed to “carry more weight”:

What we’ve learnt to do is use terms like ‘professional judgment’ and ‘that in my professional judgment this is not acceptable because’ rather than assuming that people will make the link ... So sometimes it’s how you use your words and there seems to be - we use the term ‘professional judgment’ - it seems to carry more weight than just listing things. (Case B: HOS)

It was unclear how this somewhat Machiavellian strategy was working, or if in fact it was necessary, given the dean considered that professional judgment carried weight anyway. However, this was not the entire story, as will be seen.

The dean explained how the various professional disciplines dominated the behaviour of educators. He had a real concern that this emphasis might lead to discrimination, in the case of nursing. He described his worries regarding this possibility as follows:

The nursing school’s a little bit better ... [at] recognising that they are educators - not nurse educators - but educators, and that we have our own professional code of ethics, we have an obligation under the Education Act. ... But I always do have this worry that a decision has been made to exit a student because the staff involved believe he will not make a good nurse, or she will not make a good nurse. And while that may be an opinion that they are entitled to hold, as part of their second - or first - profession, before they came into education - it’s nevertheless not something that is able to be used to decide whether somebody should or should not continue on our programme. And that’s the biggest worry I have ... the fact that somebody somewhere doesn’t really think this person should be a nurse, or a social worker, or a counsellor or whatever. And that’s a tough one. Because it’s also very tough to go back to the staff and say, “Damn it! You’re not allowed to think like a nurse in this org - in this situation.” You know? Because they don’t leave the profession - they have two professions. (Case B: Dean)

The dean’s transcript contained several apparent inconsistencies between his expressed ideals, and the reality of the situation. On the one hand, he emphasised the need to respect professional judgment, regarding nursing as an academic discipline, and the need to trust that professionals were making “good calls.” On the other hand, he maintained professionals were not allowed to think along the lines of their specific discipline, in this case “like a nurse,” in the educational context. He considered that

professionals, such as nurses, brought different strengths to the organisation because of their varied backgrounds, but they needed to remember in the educational context that they were educators, not nurse educators, whatever that might mean. The dean's comments reflect the argument put forward by Watts (2000), that 'specialist knowledge', in terms of higher education, is that which underpins professional judgments and decisions on behalf of the student. Implicit in her argument is that specialist knowledge is that knowledge specific to education, and not any other discipline. Lecturers are first and foremost educators (Watts, 2000, p.13). Clearly, in Case B, the dean perceived a clash between nursing and education as separate professions:

And this one really niggles me - and I don't think I will ever satisfactorily resolve it in my mind - and that is that, quite frankly, I have a great deal of difficulty trusting the staff in the school of nursing to behave in an educationally professional fashion rather than a nursing professional fashion. (Case B: Dean)

The dean emphasised his need to trust his colleagues, and his own professional judgment. However, it appeared that he did not trust the nurse educators; he considered them to be harsh, and they confused the needs of the nursing profession with their obligations under the Education Act (1989). This dilemma reflects wider issues discussed by Middlehurst and Kennie (1997 cited in Watts, 2000, p.12) regarding the need to address the professional roles of academics per se, including the means of developing and maintaining appropriate professional attitudes and behaviours, and the issues of trust and accountability. Again, there is an irony in the dean's statement; the nurse educators considered that they had adopted a new philosophy and practice when they moved into education, and away from nursing practice. Furthermore, this shift had developed in response to what they perceived as bad and dishonest educational practices in the tertiary education context, not from their experiences as nurses.

In Case B, the dean argued for the right of a student to receive education, regardless as to whether they might make a 'good' or 'bad' nurse. The head of school and third-year co-ordinator emphasised the need for competent and safe nurses. This difference in perspective produces a tension found in health professional education in general (Churchman & Woodhouse, 1999; Watson, 1992). The dean emphasised the

organisation's policy and statutory responsibility under the Education Act (1989), which he considered took priority over the Nurses Act (1977):

The only vehicle that I have that I can work with is our policy, and the fact that we are governed by the Education Act, and the Education Act comes first. The Nurses Act is actually extremely clear - that the education organisation has no part in deciding whether somebody will be a good nurse or not (Case B: Dean)

It was clear in Case B that the dean did not recognise the tension that existed for the nurse educators, as registered nurses, working under both the Nurses Act (1977) and the Education Act (1989) within the tertiary education context. In many respects he confirmed the opinion of the head of school, that their professional judgments were being called into question, and her view that non-healthcare professionals "just don't get it."

Signing-off

Like the head of nursing in Case A, the head of school in Case B had, in the past, refused to sign applications to sit the state examination, but she had not actually signed to say the students were *not* fit and proper and of good character. When managing the unsafe student she reported she sometimes resorted to the threat of withholding her delegated authority to sign a student off, but viewed this as "pretty pathetic":

I [sometimes] use the Nurses Act, and the threat of not signing someone off. I have to really. Yeah, it is a way of protecting myself. It's also a way of protecting the staff and, I guess, the school, to say, "Well look the school made it quite clear all along that I would not support this person's application for registration even if they got their degree. Its there in the notes right from the word go." So you can use that - but like it's pretty pathetic when someone may lose their life as a result of it, you know, to think how you're protecting your own back. (Case B: HOS)

In his interview, the dean did not indicate he understood the statutory obligations of the nurse educators, as registered nurses, regarding public safety. Unlike the registrar, he did not perceive safety as an issue and did not create any hypothetical scenarios, or articulate a bottom line or litmus test of safety. Instead, he used his gut feeling and intuition to arrive at an answer (see Chapter Five). The dean did, however,

acknowledge the head of school's responsibility, and power, regarding signing-off the student for the NCNZ, even though fit and proper was couched in terms of the student being good or bad:

No matter what I might think of a student - good or bad - the only person in this entire organisation who can actually make a recommendation to Nursing Council is the head of school. And, she doesn't have to consult - I presume she does consult - but she consults her staff, not me. She does come and tell me if she's got a problem and she thinks that the fit and proper is going to be a difficulty - because we know damn well that as soon as she declines to sign somebody off it's going to hit my office pretty fast. (Case B: Dean)

This issue is taken up by the head of school who, initially, felt that her power to refuse to sign-off a student was perceived by the educational organisation as her ability to "sabotage" educational decisions:

We have power through the Nurses Act and I don't think that always rests well with our institution. They don't like the fact that the head of school can still sabotage their decision, of the student's right to continue, by saying, "Oh well, I won't sign them off." But also there is some respect for that too. And I think that as - I guess I've been in the job for a while now - and the people around have been in their jobs for quite some time - and they have seen incidents where I actually think they're quite glad that nursing can say that. They're quite - I don't know if I'd go quite so far as to say they're happy for the head of school to say that - but they can see that, based on what they're hearing about this person, they wouldn't want them as a nurse looking after someone in their family. (Case B: HOS)

The head of school saw her ability to not sign the student off as, in fact, a way out for the educational organisation. The dean confirmed this interpretation, and saw the refusal to sign-off a student as a means of deflecting attention away from the educational process, and onto the professional requirements of nursing:

But I think it's significant that the Acts themselves create that separation and she's got an entirely different role. And neither she personally, nor the organisation, can in fact be challenged by any student if she declines that. They can challenge Nursing Council - they can go to Nursing Council - but she's - you know - she's protected in making that decision and I think that's very good. But that also means that I'm protected to some extent, because I am not required to exit a student under the Education (Act). (Case B: Dean)

Once again, as in Case A, there seems to be an acceptance that an educational organisation might not be able to fail a student because they are unsafe, or not fit and proper, or not of good character, for the nursing profession. These considerations are regarded as having little to do with the educational process, or with obtaining an educational qualification, even if the degree is a Bachelor of *Nursing*. It is the NCNZ that must refuse registration under the statutory authority of the Nurses Act (1977). It seems to me that important questions are raised by this scenario regarding what a degree in nursing really means as an educational qualification, and for nursing as a profession. This issue is not explored in the context of this thesis and remains an area for further discussion and debate.

The head of school noted in her interview that the organisation had recently started to ask if the “pendulum had swung too far” regarding the focus on the student, the emphasis on students’ rights, and giving them every benefit of the doubt. As far as she was concerned, this shift had already taken place in the school of nursing, a view supported by the descriptions of nursing students’ progress, success and failure.

The registrar stated that the number of students who were becoming litigious was increasing. He doubted that the organisational structures, whereby individuals had authority and responsibility for decision-making on individual cases, would be able to continue much longer because of the increasing demands, complexity and time constraints. In Case B, individual nurse educators and managers had a degree of autonomy in the management of students and so, where differences of opinions occurred, these did not necessarily affect the decisions, or the outcome. The structures and processes contained checks and balances for fairness and due process and, even when there was disagreement regarding the head of school’s professional judgment, this did not interfere with the decision-making process.

Tensions were apparent in Case B regarding what was, and what was not, a professional judgment, and in what capacity a professional judgment was made. In Case B the dilemma was not the failure to fail, either via committee or by individuals. Rather, potential dilemmas were created by the tensions between two Acts of Parliament. It appeared that these potential dilemmas might be realised should the organisational structures change so that committees and panels, perhaps containing non-healthcare

professionals who “just don’t get it,” take over the decision-making function. In the meantime the different language games of nursing and education, the different professional discourses, produced different subjectivities.

Moral Voices

All participants demonstrated a concern for the student within a moral framework of justice and rights, rather than an ethic of care. The dean, who did not have a decision-making role in many of the cases discussed, but whose responsibility it was to ensure due process and natural justice had been implemented, appeared to be the participant who experienced a degree of personal agonising and swaying. However, this discomfort was not as a result of knowing the students or of having a relationship with them. Instead, he utilised the principles of fairness and equity, and his sense of justice and rights and obligations, and trying to figure out which of these took priority, seemed to underpin his unease, rather than an ethic of care or the moral voice of care and responsibility as described by Gilligan (1982). The dean seemed accepting of the need to make recommendations and decisions that might hurt the student, and of this being the ‘tough’ part of his role. The registrar was aware of the cost of failure for the older, more mature student, but his role was, like the dean’s, to ensure “fairness without fear or favour.”

In Case B, the moral voice of rights and justice, based upon abstract moral reasoning, universal principles and a social contract, was dominant. As such, there was respect for the students, and their rights, within the educational context. When processes failed, such as the failure to fail, new ones were created to address this, for example, the introduction of the probationary period. The students’ best interests were central, and each actor in the process was expected to take individual responsibility for their part, including the student. As noted earlier, in many respects the caring in Case B could be described as ‘principled caring’, that is, caring based on principles such as justice, rights and fairness. This form of caring can be seen as a product of the justice and rights moral voice and contrasts with the form of caring produced by the moral voice of care and relationships. These different forms of caring are returned to in Chapter Ten.

I would argue that the students, and their situations, were presented as generalised others, to use Benhabib's (1987) analysis, in that they were disembodied, disembedded and abstracted from their history and social, political and economic context. However, because neither the nurse educators, nor the dean and registrar, operated within a care framework, or an ethic of care, the focus was on fairness and justice. The need to avoid rescuing or enabling, in the sense of obstructing a student's personal growth, dominated. No-one in Case B took the standpoint of the particular other (Benhabib, 1987), and only the dean expressed feelings of empathy or sympathy for the student. In addition, although the dean stated that he would find it difficult not to consider individual student circumstances, his discussion remained in the realm of the hypothetical. As such, he was able to take the moral high ground in his appeal to contextual relativity (Friedman, 1993).

Significantly, in Case B, no moral dilemma was identified in the management of the unsafe student, and this begs the question as to why this should be the case. Baier, in her discussion of Gilligan's two moral voices, asks what it is that comes into view from the care perspective, but is not seen from the justice perspective (Baier, 1995, p.49). One of Gilligan's participants states, "People have real emotional needs to be attached to something, and equality doesn't give you attachment. Equality fractures something and places on every person the burden of standing on his own two feet," and from this viewpoint equality is unable to resolve the dilemmas requiring choices (Gilligan, 1982, p.167). Gilligan goes on to explain that her participant recognises that, with care and responsibility, judgment becomes more attuned to psychological and social consequences of actions and, when faced with moral problems, sometimes "no matter which way you go, somebody is going to be hurt and somebody is going to be hurt forever" (p.167). In the end, it is a matter of choosing the victim when faced with an irresolvable conflict. I would argue that, in Case B, the 'hard' voices and rights focus of the participants reveal Hume's 'cold jealous virtue of justice' and, because in Case B the rights voice is dominant, the warmer, 'going soft' care voice is not just silenced, or invisible, it is entirely missing. In the absence of the care voice there is no alternative; there is no anxiety; there is no dilemma.

The strength of the justice and rights approach in Case B is in distributive justice, whereby the emphasis is on the prevention of injustice via good processes (Friedman,

1993), and taking the hard line, and being hard-nosed. However, the principle of justice in ethics, interpreted within the justice and rights framework as justice as fairness, maintains a focus on the individual and not on relationships. Of relevance here, therefore, is Friedman's observation that relationships are morally wrong to the extent that they harm people. However, I would argue that, in Case B, the danger lay in the decontextualising of the situation, and in treating individuals as disembodied and disembedded. As a result, there is the possibility that moral blindness might set in leading to intolerable indifference (Johnstone, 1994a), and the capacity for moral sensitivity be lessened (Jaeger, 2001). As Baier comments, the exclusive focus on justice and rights is compatible with very great misery and there is a need for more than justice even when this is obtained (1995, p.51). Similarly, Friedman argues that fairness, as justice, is not our only moral concern (1993, p.107).

In Case B, there was a strong emphasis on students taking responsibility for their own learning, but when public safety was threatened by individuals pursuing their own interests at the expense others, this was considered inappropriate. Baier's argument is relevant here. She considers that if a liberal morality prevails in education then there is a danger that education may "unfit" people to have anything except "no interest in each other's interests" (1995, p.55). This possibility is clearly particularly worrying regarding the preparation of nurses, but Baier argues this approach can be tempered by the use of the moral voice of care. There are echoes here of Hunt's argument concerning "widespread sociopathy" (1997b), whereby if people do not experience care and concern as babies it would be unreasonable to expect them to demonstrate these feelings as professionals (see Chapter Two).

Moral Selves and Moral Language Games

In Case B, the justice and rights moral voice of the participants allowed them, in true modernist style, to find the right answers in the management of the unsafe student. Not only did individuals have the authority to make decisions, but the same people had a strong individualistic view of themselves as separate, autonomous, rational moral agents. A minimum of emotions and feelings were expressed regarding students, and an emphasis was placed on the principles of fairness, equity and justice and rights. Only

the dean appeared to take into consideration personal circumstances and the wider context of students, but this contextual relativism was secondary in this case to his role of ensuring due process had been implemented by others. All participants made decisions effectively and efficiently by applying the rules and regulations, and implementing the policies and procedures. In some respects, in Case B, it could be argued participants 'got it right' on two counts. The first 'getting it right' was provided by the rules of the language game of rights and justice, which contains within it the ability to find the truth of the matter, as well as the right answer. Secondly, if viewed as a moral language game, using Hekman's analysis, when making a *moral* judgment within the language game the players are "necessarily asserting its truth" (Hekman, 1995, p.160). It is argued here that moral dilemmas did not present in the management of the student in Case B, because all those involved in the process were playing the same moral language game; they had agreed the rules, which were immanent to the game, and played the game accordingly. However, tensions appeared when participants were found to be playing different professional language games.

The debate in Case B regarding the 'two hats' of nursing and education can be viewed as different language games producing different subjectivities (Hekman, 1995; Lyotard, 1984). In using particular phrases such as 'professional judgment' the nurse educators can be seen as making 'moves' in the language game of professional nurse education, creating themselves as 'an authority'. In so doing, they can be seen to be making the rules of this particular language game and, because within the organisation they are also 'in authority', they are better able to control and manipulate the game. However, in this language game of professional education the dean agrees the rules, and the nurse educators' moves are surplus to requirement. Where the dean does challenge the nurse educators as being 'an authority' is from within a different education language game. This educational language game is constructed within the framework of the Education Act (1989) and constitutes subjects discursively as educators, not nurse educators, and so subjects are "not allowed to think like nurses." Nurse educators counter this by playing yet another language game, the discourse of safety. However, the head of school seems aware of the limitations of this game, because the dean "just doesn't get it," and so develops strategies to manipulate the shared language game of professional education.

To some extent, it could be argued, that when both the dean and the nurse educators play the professional education language game based on justice and rights, then there is consensus and all play by the same rules. Tension and dissension appears when the language game of nursing conflicts with that of education within the tertiary education context. These two language games, informed by the Nurses Act (1977) and the Education Act (1989) respectively, are explored in greater detail in Chapter Nine.

Summary

The management of the student in Case B was unproblematic. The identification of the student as unsafe was unambiguous (see Chapter Five), the case was made with the full co-operation of the clinical placement, and organisational policies and procedures were implemented in a straightforward manner. The student's reply to his exclusion was investigated and, other than the nurse educators being perceived as a little "harsh," the questions raised were answered to the satisfaction of the dean and the chief executive officer.

All four participants exhibited a dominant justice and rights moral voice in this case study. This situation facilitated the finding of the right answers, especially regarding the management of the unsafe student. While the absence of the moral voice of care and responsibility avoided the experience of moral dilemmas in the management of the student, it could also be argued that it had implications for teaching students moral sensitivity and developing moral imagination. Unless moral dilemmas are identified and experienced in practice then learning from these does not take place. Johnstone makes the point that moral blindness occurs when moral problems are not understood as such (1994a, p.163).

In Case B, the context of the tertiary education organisation supported individual decision-making. This fitted well with the strong individualistic discourses of the various participants. As such, the management of the unsafe student was unproblematic and did not lead to moral dilemmas regarding public safety. As it was, the tensions in Case B were focussed on the two hats of education and nursing. While all four participants shared a professional education language game differences were highlighted when nurse educators were perceived as engaging in nursing discourses,

rather than education discourses. These different discourses, it is argued, are informed by different Acts of Parliament and can, therefore, be viewed as statutory discourses. This argument is expanded in Chapter Nine.

CHAPTER EIGHT

CASE C

In Case C, the student had been identified as unsafe in clinical practice resulting in her being removed from the clinical placement, and the postponement of sitting the NCNZ State examination. However, the school was unable to fail the student as the clinical staff involved in the assessment withdrew the evidence upon which the fail grade rested. When the head of school approached the DHB to arrange further clinical experience for the student they refused access, because of the student's previous behaviour, and placed this decision in writing. On the basis of this evidence, the head of school was not prepared to negotiate an alternative clinical placement for the student. As a result, the head of school did not request additional time from the NCNZ, needed in order for the student to complete the required clinical hours for registration.

The following chapter is divided into three sections. The first section looks at the management of the case, specifically the organisational philosophy and how this translated into management processes. The second section looks at how the organisation's policies and processes, based on the organisational philosophy, affected decision-making. The third section looks at the tensions between education and nursing as professions.

Managing the Case

In Case C, four nurse educators were interviewed who identified as being directly involved in the management of the student. While authority for decision-making was vested in individual roles and responsibilities, there was a strong team emphasis within the school of nursing, and peer support. Two additional nurse educators had been identified as being involved in the management of the student, but they did not respond to the invitation to be interviewed. The dean of the faculty was interviewed, as was a previous head of school of nursing then working in a different area of the organisation. Neither the dean nor the ex-head of school had first hand knowledge of the particular

student identified by the head of school, but both of them had considerable experience in the management of difficult, failing and unsafe students.

The organisation in Case C was in a state of some flux when the interviews took place. There had been recent changes to personnel in the school of nursing, and the faculty was also undergoing restructuring with further changes predicted. The themes of reflection and reform regarding school policies, procedures, and the management of the programme, emerged from the interviews.

Organisational Policy

In Case C, there was a strong organisational philosophy, underpinned by the principle of social justice and a focus on community, which permeated the policies, procedures and day-to-day management of students and programmes. This organisational policy aimed at providing educational opportunities for people, primarily in the local community, who had not benefited from previous formal, educational experiences. As such, there were comprehensive teaching and learning resources made readily available for students.

The implementation of the organisation's philosophy in practice created some difficulties, particularly in the identification and subsequent management of failing and unsafe students. In particular, there were two policies that were emphasised in the interviews. The first policy stated that, given the appropriate and necessary support, students who had not previously succeeded in education would be able to do so. In her interview, the dean noted that prospective students needed to have both the will and the potential to succeed. The head of school backed the organisation's philosophy, and drew on her own learning experiences in her support of it:

I believe that people need an opportunity to learn. Because I have seen students who have come in, without a lot of success in their previous things, and then they just become merit students, or ... they've suddenly learnt how to learn. I guess probably some of that goes back to myself. When I was at school I'd pass, or I wouldn't pass, and I had no study skills. I didn't know what study was - and the same with my nursing. ... So, I think that there are some techniques and skills around learning that you wish to support. (Case C: HOS)

Once again the experiences of a head of school, as a student herself, informed her practice as an educator. In Case C, however, the approach contrasts significantly to that described by the head of school in Case B. In Case C, the student who is assessed as having specific learning needs is supported and nurtured. In practice the philosophy appeared to emphasise a partnership approach, rather than placing the entire onus for learning on the individual student. However, the concept that *all* students had the potential to succeed was questioned:

I think that it's a fallacy that we might create for ourselves that all students have the potential to be successful - I don't believe that. I think that there are a lot of students who will be successful no matter what we do; there are a lot of students who only succeed because of the support we give them. But there are a very small group of students who sometimes will not succeed despite what we might do to support them. Because it simply isn't the right time in their lives, or it certainly isn't within their ability at that time. (Case C: 3rd YC)

Although it appears here that the organisational support does not always work and places pressure on the staff rather than the student, the attitudes towards the student are personalised and contextualised (Friedman, 1993). There is a hint of the moral voice of care and responsibility (Gilligan, 1982) in the statements of both the head of school and the third-year co-ordinator. The emphasis is on the relationships they have with the students and their knowledge of them and their circumstances.

As the interviews progressed, it became clear that the organisational philosophy had been re-interpreted, or misinterpreted. The concept of student potential was replaced by the notion that all students were "able to succeed." In the introduction to the assessment policy in the school of nursing in Case C there was the statement that the policy "is based on the belief that success is possible for each student." The third-year lecturer described how this belief was not necessarily shared:

My philosophy as an educator is probably at variance with the key phrase in our assessment policy, which says that 'all students are able to succeed'. That's our key phrase in our assessment policy. And I do not believe that. I do not believe that everybody that comes into the programme is going to be successful. (Case C: 3rd YL)

The second-year lecturer also did not agree with the interpretation “that anyone can do it.” She became quite tearful when describing how some students had failed, and were not safe:

On a few occasions - on a few occasions (participant crying) - it's sad because the people - the people who haven't made it, and can't make it - they're wonderful human beings, but they can't make the transition, or they're not going to be safe. And so the belief - that anyone can do it - you know - well it's bullshit. Not anyone can do it. But there's been some times when I've just held a hope for people that they will make [it] ... and the reality is that they're not going to make it. (Case C: 2nd YL)

Once again, Gilligan's voice of care and responsibility can be heard. The second-year lecturer describes a clear connection with students and exhibits distress for these “wonderful human beings” when they do not succeed, or are considered unsafe.

As will be seen, in Case C, the policy based on the belief that every student was able to succeed appeared to have significant consequences - in particular, the way in which nurse educators responded to students who were “not going to make it.” The ex-head of nursing was a strong proponent of giving people additional educational opportunities, but also acknowledged the potential problems inherent in this practice. She made the following point:

So there was a high, and there still is, a high institutional value set around supporting students to succeed in programmes. So one of the big dilemmas that the department has always had to tussle with is how much do you support a student? And at what point do you say this student has had all the help that we can offer, and they still cannot succeed, and therefore they need to be exited out of the programme? Now, over the years, we've gone the full gamut from being too flexible, to becoming too rigid, and trying always to negotiate with where's the reasonable ground in that. (Case C: ex-HOS)

In Case C, it was the promotion of the organisational philosophy of student support that created the caring context in which nurse educators and education administrators worked, and students studied. Within this context, there was the notion of a continuum between flexible and rigid, and that an identifiable point existed on the continuum that resolved the problem of too much, or too little student support. There was also an acknowledgement by the ex-head of school that not all students were able to succeed. When this situation arose, the student needed to be “exited out of the programme.”

The third-year lecturer and the ex-head of school both described the dilemma regarding the student who had succeeded to a point, but still fell short of achieving the required standard:

As a first year lecturer you would know that you've got a group of two or three students, every year, who you've seen make enormous movement in terms of their learning and ability over the course of the year. And we put these stakes in the ground and we say well you can't go past this point unless you reach that point. ... You have some students who come - who only have to move the equivalent of three inches to reach the successful point. We have some ... students who, you know, have moved a yard, and then fallen short an inch ... and it's those students that are the difficult students. Do you keep them in the programme? What to do about them- do you make them repeat? Do you push them through in various ways? How do you cope with them? Those are the ones that are difficult I think. (Case C: ex-HOS)

Again, Gilligan's moral voice of care and responsibility can be heard in this excerpt. The ex-head of school does not simply apply the rules, but takes into consideration students learning trajectories over time, demonstrating contextual relativism (Friedman, 1993). However, 'pushing students through' and 'being kind' to students were found not to benefit students in studies by Duffy (2004b) and Poorman et al. (2002). In the above scenario the focus is on the student who is portrayed as having performed well, but not quite well enough. This situation is portrayed as a dilemma, rather than just the consequences of not performing to the required standards. The dilemma arises from the possibility of the student realising, or not realising, their potential and what role the nurse educators, and organisation, may play in that. There is a hidden assumption in this statement, but articulated by the dean in her interview, that students do in fact have potential and that this can be realised via education. There is a further assumption that this is a positive goal of education and one that can benefit individuals.

In Case C, the dean described the problem of students continuing, with little hope of ultimately succeeding, but she did not link this predicament directly to the organisational policy:

Because sometimes you think, with a bit more help, they'll get there. And so somehow they end up in the second year. So if you've got somebody who's actually taken a couple of years to do - and is like sort of in their fifth year - you say, "It looks like you're not going to pass" - it's drastic. So we are looking

carefully at whether we should be looking at those issues earlier ... If the person is obviously not going to become a registered nurse, or be able to practise safely, they need to know that before they reach the third year. (Case C: Dean)

As noted earlier in Chapter Five, this was also the opinion of Judge Morris in the *Malster vs Manukau Polytechnic* case. The Chief Executive Officer of the NCNZ also endorses this view and, according to her, it is the responsibility of nurse educators to find an ethical way through all the tensions:

Giving the students a fair and just process means exiting them from the programme if and when you become aware that they're not going to be fit and proper to register at the end of it. Because we don't think it's fair if a student's on a programme for three years or four years or five years, when at some particular point in that it was quite clear that you wouldn't be able to recommend them as fit and proper for registration, and therefore Council mightn't be registering them. So it's finding an ethical way through all of those tensions. (NCNZ: CEO)

However, from a statutory perspective it is not in fact possible for a head of school or the NCNZ to make a decision prior to completion of the programme (Drake & Stokes, 2004). As noted previously, the NCNZ has no jurisdiction over a student in tertiary education, and the head of school must wait until the completion of the programme before making any judgment so that they are seen not to be discriminating. It is interesting that in the case of *Malster vs Manukau Polytechnic*, it was this very issue that the student, as plaintiff, raised. She argued the assessment policy published in the nursing curriculum stated, "assessment does not involve determining a student's suitability as a candidate for the nursing profession" (cited in *Malster vs Manukau Polytechnic*, p.15). However, Judge Morris considered it would be intolerable for an institution to have to wait until the student completed the programme if the student was considered unsuitable for the profession. This situation is further complicated by the fact that the NCNZ does not always agree with the heads of schools' decisions regarding signing-off, as seen in Case A and reported in Drake and Stokes (2004). In addition, the issue of whether a student will make a good nurse is not always considered the business of the tertiary education organisation, as seen in Case B. In the educational context the concepts of fit and proper are not necessarily included within academic standards and competencies as these are considered to be a professional, but not an educational, issue. If students are failed because of attitudes and behaviour deemed

unsuitable for the nursing profession, this provides fuel for getting burnt at appeal (see Case A) and in Case C it is part of a deeper tension of competing discourses.

The third-year co-ordinator described how one student had been told consistently throughout his six years on the programme that “he would be successful,” even though he had “failed every piece of assessment on its first submission.” She considered it “immoral” to be taking his money when, in reality, he had little chance of success. It seemed in Case C that the nurse educators were caught in a situation of ‘never say never’ regarding student failure. The school of nursing assessment policy declared all students could succeed so that, when a student was failing, responsibility for this somehow shifted from the student to the nurse educators. Students were relieved of taking responsibility for their own learning. Nurse educators were then placed in a situation whereby they had taken responsibility for that over which they had no control. This situation is very similar to that found by Walkerdine (1986, cited in Acker, 1995) in her critique of child-centred teaching which privileged the child over the teacher. The consequences for women teachers in the latter study was that they had become “caught, trapped inside a concept of nurturance which holds them responsible for the freeing of each little individual, and therefore for the management of an idealist dream, an impossible fiction” (1986, cited in Acker, 1995, p.25). As will be seen in Case C, nurse educators also appeared to relinquish responsibility over that which they did have choice, and control - the administrative processes for failing students.

The second policy that was specifically prominent in Case C, and which constituted another mechanism for implementing the organisational philosophy, was the ‘clean slate’ policy. This policy emphasised that each successfully completed academic year stood alone and aimed at eliminating discrimination and prejudice. No information regarding student performance was passed from one year to the next; students began each academic year with a clean slate. The third-year co-ordinator described this situation with the student in Case C:

I became aware of some concerns about [this] student’s behaviour in the clinical, and in the classroom, in terms of her ability to connect with others, her ability to communicate effectively, and some concerns about her safety with clients ... [but] because we have a process that we attempt to provide students with a clean slate each year ... if a student has had performance issues ... we

wouldn't necessarily tell the next person about them - a process which we have since reviewed. (Case C: 3rd YC)

In effect, it appeared that the clean slate policy made it difficult to communicate information regarding problematic patterns of behaviour manifested over time. The reporting of student difficulties between educators, especially in relation to re-assessments, is recognised as a controversial and unresolved issue in nurse education (Duffy, 2004a). Lankshear (1990) refers to the practice of withholding information on student performance as the 'secret garden' mentality. She argues that assessors are perfectly capable of recognising the danger for students of self-fulfilling prophecies, and can be trusted to create an environment that mitigates this possibility.

The head of school talked about "not contaminating the process" from one year to the next and linked this directly to documentation:

So I guess that's always been there for me - about the need to document - but it's always also how much do you document? And then it's not passed on to another level so [that] you're not contaminating the process. And how much - there is that dilemma about what do we keep and what don't we keep? What's fair? Because you don't want to have people sort of prejudiced against the student. (Case C: HOS)

In Case C, all those interviewed identified documentation as an issue. The head of school described how, when working in a previous school of nursing, a student had won a court case, even though "everyone knew he was diabolical," because the nurse educators had failed to document everything. Documentation, as part of due process, was highlighted in the literature as a problematic issue in nurse education (Boley & Whitney, 2003; Smith et al., 2001) and in both Case A and Case B in this study. In Case C, the type and extent of documentation, in conjunction with the clean slate policy, remained problematic.

One solution to what was perceived as the problem of the clean slate policy, suggested by the head of school, was to instigate more summative assessment. This formal assessment could then be documented, providing an audit of performance over time, and form a legitimate part of the student record. However, it was not clear how this strategy might differ from existing practice.

The head of school described the difficulties of trying to find a balance between providing opportunities and support for students to succeed, and the clean slate policy, asking, “how many goes around some behaviours is acceptable and how many aren’t?” The third-year co-ordinator also talked about balance and fairness and how the team was anxious to avoid any expectations of student failure:

There’s a balance between fairness to the student and fairness to us. ... Our responsibility is to facilitate the student’s success and be clear in our communications with students around what the standards are, and how they might meet them ... but also they [the team] wanted to protect her [student C] from this sort of hangover of well you failed last year you’ll fail this year. We try to be as fair as possible. (Case C: 3rd YC)

This excerpt is an example of Gilligan’s (1982) notion of competing rights as well as competing responsibilities. Nurse educators have responsibilities to communicate clearly and uphold standards, while wanting to protect the student from discrimination. At the same time, there is a need to enact the principle of fairness, for everyone. The difficulty lies in achieving a balance.

The third-year co-ordinator also acknowledged that it was not fair if the student had to “reinvent the story again” each year. Here, the problem is cast as a need for ongoing student support, especially regarding providing safe care. However, even if it were possible to alert the next academic year of this requirement, this situation still begs the question of how existing summative assessment was in fact evaluating safe, competent practice. As will be seen, the assessment tools in Case C were not always rigorous or effective in evaluating competent practice.

This discussion of organisational policies, and their implementation, raises many of the perennial problems encountered in most forms of institutional education. These include providing an appropriate level of support; finding a balance between providing students opportunities to succeed and accepting when the student has failed; making difficult or hard decisions when students have “moved a yard,” but “fallen short an inch.” Educators try to find a balance between being too rigid and too lenient, of pushing students through or getting them to repeat, and all the while trying to ensure that decisions are fair and non-discriminatory, and that standards are met.

In allowing students multiple attempts in assessments, nurse educators in Case C were demonstrating aspects of Gilligan's (1982) ethic of care. They demonstrated that they were reluctant to judge, and did not wish to hurt the students. In addition, it appeared that failing the student was also a form of breaking the rules, the one that stated that all students are able to succeed. This situation 'paralysed' the nurse educators who were unable to act upon their own perception, or their own beliefs, resulting in them not taking responsibility for what they did or did not do (Gilligan, 1982, p.49).

Failing Processes and Responsibilities

The moral voice of care and responsibility was heard in Case C in relation to student assessment. The third-year lecturer talked about student investment over time and the responsibilities of nurse educators regarding failing students:

And I think that we have a responsibility - a moral and a professional responsibility - to counsel people out - and the earlier the better - because by the time they get to year three there shouldn't be any problems, but there always are. And of course they always fight hardest in year three because they've invested so much more - and I would too - absolutely. (Case C: 3rd YL)

Again, this contrasts with the head of school in Case B whereby she interprets the student request for another chance as being "par for the course." However, in Case B, the nurse educators considered they were culpable if they allowed students to invest too much when they were clearly failing. The excerpt above describes the tension between the acknowledgement of students' personal investment in their education and the responsibility of the nurse educators to use both informal, as in counselling students out, and formal mechanisms to exit the student (see Duffy, 2004a; Goldenberg & Waddell, 1990). In Case C, however, there were difficulties in resolving these situations using the organisational processes available.

The dean remarked that the school of nursing had run parallel processes within the organisation in the past, and that these had "landed them in strife." The head of school admitted that they did not always follow the organisations' processes. She described, in almost clandestine tones, how she and one of the nurse educators had attempted to counsel a student off the programme:

But we don't always follow our processes. I think there have been some times when ... I mean I had one in the other day when I sat in here and told her. I told her I thought she should go and do something else because she hadn't passed anything and, well the tutor and I were concerned, we were sort of thinking ... well we actually don't want to re-enrol her because she hadn't worked out. But our policy doesn't - our policy is reading like ... you can do a paper twice - and we do have to tighten that up with some of them - I mean, do every paper twice!

This description contrasts with the account given by the head of school in Case B whereby procedures were followed and the need to make hard decisions was considered almost a badge of honour. In addition, the student is presented very differently in Case B and Case C, highlighting the way in which the different discourses of justice and rights and care and responsibility result in different subjectivities (see Chapter Nine). In Case C, the nurse educators described how they had reviewed their policies and procedures, in line with the organisational philosophy, and also in order to improve practice. In particular, the school had been offering students automatic re-assessments within each paper, in addition to the fact that students could already "do every paper twice." This practice had been changed, so that students now had to apply for re-assessments in writing. Again, this change in policy contrasts with that introduced in Case B, whereby students were automatically placed on probation on a second enrolment regardless of the reason for their unsuccessful first attempt. In many ways, these strategies reflect the different organisational cultures as well as the different moral voices of the participants.

According to the ex-head of school, assessment tools on the nursing programme had not been rigorous and tight. The need for evidence and the absence of clear performance criteria was described by the third-year co-ordinator as follows:

We couldn't fail this student - because we can only fail the student if we have documented evidence. ... It is part of performance criteria but it is - it was written so vaguely that really it didn't have any teeth in it really, that someone could say, "Well actually no they don't do that." We hadn't articulated it well in our assessment tool. So, because we hadn't articulated it well, exactly and precisely what do we mean by "communication skills," what do we mean by "cultural safety," what do we mean by these things ... so assessment tool was one of those things that has come out of this experience I had with this student. (Case C: 3rd YC)

The lack of validity and reliability of assessment tools in nursing programmes has been highlighted as an issue in the literature (see Duffy, 2004a; McSherry & Marland, 1999; Norman et al., 2002). When asked about the organisational processes involved in managing the situation in Case C, the third-year co-ordinator described the need to make the case as though it were a legal one because “that’s the standard with which we were being judged” (see Scanlan et al., 2001). She emphasised the need for documentation and compared this with the legal status of patients’ notes and student records. As in Case A and Case B, the quasi judicial-legal model of educational administration is acknowledged and responded to. The head of school, when asked what her greatest fear was regarding the management of this student, reported it was having the school processes criticised for not being “tight enough” and “found wanting.” She was also anxious that the student might “get off the hook” on something technical, for example, lack of documentation, as noted earlier. There is tension in Case C regarding the need to make strong, legitimate cases for failure, but then having weak processes that could allow unsafe students to progress.

The problems created in the way the organisational policy was interpreted and implemented were compounded by the practice within the school of nursing of giving the student the “benefit of the doubt”:

I think that the issue for us is when students show up in year one with some behaviours - and you sort of work with them and you give them the benefit of the doubt - then they’re showing up in year two ... and seeing some students get to year three - use up all their time in the process - and they still haven’t been successful but we’ve been going, “Oh, it’s alright. Have another go,” and “Oh, it’s okay to have another go” - I think it’s about us being clearer. So I think in the last few years - I think I’ve got more into - we’ve got to actually be clearer about the rights and wrongs. (Case C: HOS)

The third-year lecturer also confirmed this description stating that the school was “very generous” and very good at giving “the benefit of the doubt” (see Boley & Whitney, 2003; Duffy, 2004a; Lankshear, 1990). She also admitted that she had been a ‘rescuer’ when she had first entered education, and that she “used to leap in and rescue my students in the same way that often I probably rescued patients,” a specific activity found unhelpful by students in the study by Poorman et al. (2002). The second-year lecturer remarked that making decisions was like “playing God with people’s lives,” but that it was better for students to “back off” in the second year rather than allow them to

“stagger” through to the third year. This observation begins to verbalise the fact that allowing students to continue on the next stage of a programme is not necessarily to their advantage. Students can gain much by repeating modules and improving performance, as acknowledged in Case B.

The third-year co-ordinator described how difficult it was to fail a student and commented on this as follows:

In reality it's difficult to fail a student - it's so much easier to pass them. So to really have a student not achieve you really do a lot of thinking and processing and, you know, you've tried a lot of strategies - you don't just go “Oh you've failed” and that's it. It's a whole story that goes behind that position. So by the time the student's got to that point you've agonised and fought and really got to - had to deal with - that was your thinking - for all these reasons (Case C: 3rd YC)

The third-year co-ordinator hints here at the energy and effort required to make the case for failure. This raises questions as to why failing a student is so difficult, and why nurse educators have “agonised” and “fought” in this process. There are echoes here of Case A, and the difficulties experienced in failing students within that organisational culture. However, unlike Case A, individuals in Case C had both autonomy and authority vested in their various roles to make decisions. In addition, the “whole story” in Case C was not just a question of following rules and applying procedures, as found in Case B.

The third-year co-ordinator stated how failing a student was “not a nice thing to do” and was very “un-nurse like.” She raised the issue of responsibility, but pitched this against always being “the nice nurse”:

For lecturers who are involved with the student who is not succeeding it [failing a student] is not a nice thing to do. Sometimes it's seen on a personal level. As a nurse too it goes against those - often those things that we might hold as being important in our nursing - it seems very un-nurse like ... and really it's our responsibility to be clear about feedback, and take that responsibility of not always being the nice nurse, but being an educator as well as the nurse. (Case C: 3rd YC)

Once again, it is seen that the nurse educators are involved with students, that is, they have relationships with students; they connect with them and are attached, not separate and detached. In addition, failing a student as an educator is portrayed as something that “goes against” some intrinsic quality of being a nurse. Here, Gilligan’s thesis that moral voices and moral selves are inseparable is relevant. In addition, it can be argued that morality is connected to subjectivity and supports Hekman’s thesis that different moral language games constitute different forms of life. The third-year co-ordinator’s statement could also be read as a juxtaposition of the ‘nice nurse’ with the ‘nasty educator’. Interestingly, Lankshear (1990) reports how clinical assessors considered being a ‘good nurse’ was synonymous with being a ‘nice person’, and one who did not fail students.

The third-year co-ordinator reported how, in her attempt not to ‘hurt’ the student, she provided euphemistic feedback so that “really you’d have to be a genius to figure out what I was actually saying.” She realised how this did in fact disadvantage the student and changed her practice accordingly by giving “honest, direct feedback.” She then went on to say that sometimes the student’s failure was also perceived as that of the nurse educators, a finding in the work of Duffy and Scott (1998) and Hrobsky and Kersbergen (2002):

But by then - I mean the other thing is you start getting invested in this person, who isn’t achieving, because you’ve helped this person so much they’ve got to get through - you know? You’ve put so much in - well, you know, it’s like if they fail, well, then, we’ve all failed ... and sometimes I think it’s like we view that as part of our failure because we don’t want them to fail. It becomes about us - not about them. (Case C: 3rd YC)

Becoming “invested” in a student, and their progress, does not reflect the moral voice of justice and rights, but the moral voice of care and responsibility. However, there is a difference between responsibility and dependency. Here, the nurse educators present as though they have difficulty in responding in ways that ensure they remain true to themselves, that they retain professional integrity. Instead, their actions reflect the conflict between self and other found by Gilligan in the voice of women (1982, p.73). According to Gilligan, as women mature they develop the capacity to care for themselves, as well as others, and to develop interdependent relationships based on an

ethic of care. This ethic of care includes taking responsibility for their own decisions and the consequences of these.

The third-year co-ordinator acknowledged the emotional and procedural difficulties for nurse educators in failing a student, and recognised that these might be the same issues for clinicians (see Duke, 1996; Hrobsky & Kersbergen, 2002). However, clinicians were seen as avoiding their responsibilities:

I know that clinicians are reluctant to say that [the student has failed] because they are too nice, because they want to assist students to succeed and leave out the flip side of that which is a responsibility check. We say to them do you really want this person working alongside you next week...do you think what they're doing is okay? It's not as good as it should be because they don't want to be the person that fails the student, or who is responsible for the student exiting the programme. (Case C: 3rd YC)

Ironically, the third-year co-ordinator did not reflect back on how she had to learn how to give "honest, direct feedback" as an educator, or how much easier it was to pass students than fail them even in the educational environment (see Duffy & Scott, 1998; Goldenberg & Waddell, 1990). The head of school also raised the issue of the avoidance of responsibilities by clinicians, using the discourse of safety to make her point:

I do think all registered nurses - this is what I'm coming to in light of this student probably - I think all registered nurses have a responsibility for public safety, and that in fact if they are working as preceptors, and there's unsafe practice from a student, they actually have an obligation to contact the tutors, and they have an obligation to document what they're seeing ... so, maybe, there's something falling down in our education processes around giving feedback on your peers. (Case C: HOS)

It is interesting to note that, again, there is no acknowledgment that the student may have some responsibility regarding their success or failure. In addition, even though the descriptions of the student's inappropriate and unacceptable behaviour were unambiguous (see Chapter Five), the nurse educators in Case C did not own their responsibility for failing the student.

The Chief Executive Officer (NCNZ) echoed the comments made by the head of school in Case C when talking about her bottom line, and the responsibility of clinical nurses to report unsafe students. She described how, sometimes, registered nurses would complain about students being let through, but she always reminded them of their part in reporting poor performance. Like the head of school in Case C, the Chief Executive Officer (NCNZ) also made reference to the education and preparation of preceptors:

I mean it's every nurse - isn't it - that's working with the student at any particular stage - should be exercising that professional ... We say to staff members on the wards, "If you're supervising a student and you firmly believe that they're going to be unsafe to practise, then you have a duty to actually tell the school and to actually not sign them off against competencies if you don't actually believe that they meet all those competences" ... and that comes down to the sort of education that the clinical supervisors, preceptors actually, have and who is doing the supervision, who's doing the assessments. (NCNZ: CEO)

Wakefield et al. (2005) raise the issue of how little patient safety is addressed in medical and nursing curriculum as well as the need to examine problems honestly, specifically concerning threats to patient safety, and how these can be used as an opportunity to learn. However, in order to achieve this outcome, there needs to be an absence of the 'name, blame and shame' organisational culture prevalent in the health service (Wakefield et al., 2005). The head of school in Case C qualified her criticism of the clinicians by acknowledging the heavy workload and the lack of resources in the clinical context, including staff shortages. This situation resulted in students sometimes having four or more different preceptors over short periods of time. Time constraints for evaluating student performance, and the numbers of different mentors involved, was also a concern in the United Kingdom (Dolan, 2003; Duffy, 2004a).

Making the Case

The failing processes in Case C created problems for failing the student. In particular, the clinical nurse, while unambiguous regarding the student's unacceptable performance, refused to sign the documentation prepared by the third-year co-ordinator. The third-year lecturer described her meeting with the registered nurse who had been supervising the student as follows:

And she [the registered nurse] just reconfirmed my concerns. And so I talked about the documentation that I would like to write up about these concerns and she said, “Yep, right, that’s great.” So I did that, promptly. But then she refused to sign it - because I wanted a collaborating signature. And I said, “Look I talked with you,” and she said, “No, I don’t want” - and her words were “I don’t want this student’s experience here to be negative.” So she wanted her to see the clinical placement in a favourable light and she was so pleasant with this student that she - although she identified with the concerns - and she’d corroborated what I’d heard - she would not sign the documentation. So then it’s back to one signature on a bit of paper. (Case C: 3rd YL)

This apparent need for student approval was also found by Lankshear (1990) who found clinical assessors did not want their ward to gain a bad reputation with students by failing them. In addition, these clinical assessors considered that failing students was not worth the trouble as they were then subjected to a post-mortem, held by the school of nursing, as to how and why they had reached this decision (Lankshear, 1990, p.37). In Case C, the head of school confirmed the report given by the third-year lecturer and described the general reluctance of clinical staff to document failing students:

Some of the nurses who work as preceptors, they’ll say the students’ not safe, but we actually have to work with them quite closely to actually get them to write it down. And then I think - they’re a bit afraid I think - there’s something about some of the staff around saying this person isn’t fit. You know, they’ll say it in the tearoom or in a round about way. (Case C: HOS)

Clearly this failure to fail has consequences for students, patients and clinical staff. Duffy (2004a), Goldenberg and Wadell (1990) and Watson and Harris (1999, cited in Duffy 2004) found that clinical staff were reluctant to take action against failing students, as they feared the personal consequences for the students, and that the students might get hurt. However, unlike nurse education in the United Kingdom, the responsibility for failing or not failing students on clinical placements in New Zealand remains with nurse educators and the educational organisation. It is, however, the clinical preceptors’ responsibility to provide documented evidence of their observations of student performance, good and bad, but in Case C this requirement was not as straightforward as it first appeared.

A major problem, for both nurse educators and clinicians, appeared to be an inability to articulate “this sense that you might have”:

So I went to her file and I discovered there had been nothing written; yet anecdotally there were numerous stories of the student and concerns. What happened was, I started to think about why was it that it wasn't written down and how difficult it is to write down this sense that you might have - that a student is not demonstrating competence in communication particularly, or competence in attitude, that you particularly expect them to. And that's not only a challenge for us as lecturers as I think it's even more of a challenge for clinicians. Whereas a clinician might write on an assessment form 'satisfactory', anecdotally in conversation [they] might tell a very different story of the student's time with them. And so this mismatch of what was documented and what I was hearing was a real concern to me. (Case C: 3rd YC)

In Case C, the third-year co-ordinator remarked that, especially in the clinical environment, the challenge was "having the words to articulate" that "there's something not quite okay with our student." The third-year lecturer described problems regarding quantifying "all those other things":

I think a Bachelor of Nursing is an incredibly difficult degree because there are all those other things - it's the attitudes, it's the behaviour - as well as the knowledge and the skills - it's all of those other things. And I think a lot of that is subjective - it's very hard to quantify and so it does come down to a professional call. (Case C: 3rd YL)

The absence of language and the need to quantify was also identified by the ex-head of school. She related this problem to the need to present "what their gut was telling them" in "measurable terms." Because of the difficulties inherent in describing clinical practice in the abstract, people resorted to the discourse of safety:

Sometimes translating what their gut was telling them into the assessment processes, or finding the language, sometimes that is really difficult to do - in clinical - particularly in the application to clinical practice. Because - there's a part of me that says there's something in clinical practice - there's something in good clinical practice that you can see it when it's there, but it's really hard to describe in the abstract. And so, what I think we all struggle with really is, how do you put into measurable terms something that at the end of the day is a professional judgment. And I think we all struggle with that ... something makes us uneasy about the students' practice - we don't think that they're safe. We'll use that language because we don't know how else to say it. Now if we were in a - if we were strictly in a clinical environment then there's no problem. I mean I think that people accept that judgement call - no problem. There is a huge problem in an educational environment of translating that judgment call into a transparent process that requires this step, this step, this step. And I think we try and do it by translating it into behavioural terms and actually that just doesn't do it at all. (Case C: ex-HOS)

In fact, in Case C, there was no problem in describing the unacceptable performance of the student in the clinical environment. The withdrawal of the clinical agency's written documentation as evidence of the student's poor performance was a significant factor in not being able to make a substantive case of failure. However, this documentation was then produced in the meeting between the head of school and the District Health Board as the rationale to refuse the student further access.

In Case C, and as found in Cases A and B, the need to quantify and measure student performance reflects the power of the positivist paradigm in the process of evaluation: the need to provide so-called scientifically acceptable, neutral and unemotional evidence to back arguments. For those that support this particular paradigm, this approach is considered to ensure fairness, equity and non-discrimination (see Glazer, 2000; Mahara, 1998; Webster & Jacox, 1985). However, in Case C, there is the notion from the ex-head of school that professional judgment cannot be measured in this way. Professional nursing judgment can only be understood in the clinical context, not the educational context. Her comments here point to different discourses in education and nursing, and these are explored in more detail later in this chapter and in Chapter Nine.

Decision-Making

In Case C, as in Case B, decision-making authority was vested in specific organisational positions of responsibility, such as the head of school and Chief Executive Officer. However, in the school of nursing, a strong theme of teamwork and team decision-making emerged, as well as peer review and organisational support.

Team Support and Organisational Support

All those interviewed in the school of nursing emphasised the importance of working as a team, especially when making decisions. The third-year co-ordinator referred specifically to the decision to remove students from the clinical environment:

The support of your team is huge - it should never be a decision that you make on your own I believe. Because it's too big - it's too big for one person to make,

too big for one person to really bear the responsibility for it. So it needs to be a team decision - it needs to be overtly discussed (Case C: 3rd YC)

The language used by participants also reflected a team approach with people referring to “we,” “us” and “they,” as the team. The third-year lecturer stated, “And it’s a team decision - we have a real team approach. Although we have individual paper coordinators, we have a team approach to management of the year.” Acker (1995) also found that there was a strong team approach and a high level of participation in decision-making in her study of primary school teachers. In Case C, the particular nurse educator in authority would communicate any decision reached by team discussion to the student:

So, we would discuss this person at a meeting, and we would each have our bob’s worth, say what our considered view was, and then it would be the programme manager who had to carry out whatever it was; who had to say they weren’t entitled to a reassessment, or whatever. (Case C: 3rd YL)

The team approach was also seen to offer the student some protection against discrimination or idiosyncratic, individual decisions:

So we stopped her - and that was a team decision - and that’s a really important thing - that it needs to be a team decision. I mean it can’t be just one person because that’s too risky, for the student. (Case C: 3rd YC)

The contrast with Case B is again apparent. In Case B, the head of school noted that she and her colleagues were considered ‘harsh’ by the senior management, resulting in her recognition of the need to ensure that they were not, therefore, being discriminatory. In Case C, peer review was adopted, and initiated by individuals if they considered that their personal opinion, or detailed knowledge of a particular student, was interfering with their objectivity of the issue at hand:

All of our decisions that affect a student are made at team level. ... If I have this concern, I voice my concern into the group, and the other people in the group say what they have to say - in a way it’s quite formal ... it’s quite democratic - it’s democratically decided and so it’s a majority vote. ... The other thing I like about my team is that there are ... people there who will moderate me, and challenge me. So it’s quite healthy - it’s not always calm and charming - but it’s healthy... I think that that’s a really important thing - that it’s not just one person’s opinion. (Case C: 2nd YL)

The second-year lecturer described the school as having a “culture of consensus” and certainly the participants interviewed did not express dissension or major areas of conflict between members of the team. Acker (1995) also found that the primary school teachers in her study developed a collaborative culture, and demonstrated care and compassion for each other. University teachers in the study by Henry (1990) also adopted this strategy.

Gilligan (1982) found that women seek consensus when they make decisions or reach judgments, and find it hard to break the rules. In acting as a team, individuals in Case C avoided many of the dilemmas highlighted in individual decision-making. Given this situation, team decision-making should facilitate making the hard decisions regarding student failure. However, not only did the nurse educators exhibit the moral voice of care and responsibility, but the organisational policy of student support and clean slate also created a caring context. In Case C, the focus was not on the individual student and their personal context in all its particularities. The focus was on the organisational context, the educational context. Hence, in Case C there was little agonising about the special needs of the students; in many respects, these were seen as a given. Instead, the supportive student environment created an expectation of success, and nurse educators then created their own support systems and strategies to manage situations when these expectations were not met.

In Case C, the head of school discussed the student with the team, but the decision regarding whether she would sign-off the student so that she could sit the NCNZ State examination was hers alone and this was understood and respected by the nurse educators. However, before making this decision the head of school described how she had taken advantage of an opportunity to discuss the issue with the nurse education adviser at the NCNZ:

The other thing I found supportive was actually talking with the education adviser. I think I'd rung about something else and she just said you've got to just make the hard decisions ... and I guess I got confidence. Like I'm here as head of school - it's my credibility on the line as far as Nursing Council and things go - and so I guess it gave me a sense of like there's no way - I know that the student is not okay. (Case C: HOS)

It could be argued here that the opinion of the higher authority, the expert on statutory matters, provided the head of school with the courage to act on her convictions. There are parallels here with Case A, whereby the head of school described how the lecturers ‘got licence to hold the line’ when they were required to face up to the consequences of *their* actions, or inaction. In the end, the head of school in Case C made her decision unilaterally, accepting personal responsibility for it, “I stopped her sitting State [examination] ... I just thought I'd wear that one - they [the team] could argue, but I'm not having her go forward for State. So I stopped her sitting State” (Case C: HOS). The head of school also exercised her discretion regarding her decision not to apply to the NCNZ for additional time for the student, or to seek another clinical placement with another District Health Board.

The Chief Executive Officer of the NCNZ emphasised the need for heads of school to take their responsibilities seriously, especially regarding signing-off students. She also acknowledged that it was their decision regarding whether to “foist” an unsafe student on another clinical placement:

There have been some (students) brought to our attention from time to time through the clinical setting who failed clinical placements and ... the clinical placement says “this person is absolutely unsafe and we are never going to have them in our setting again.” And then the educators have got a choice as to whether to foist them on someone else or whether to just play on the practical components because of course our regulations say that you can only fail the practical component once and then they have to complete it. And then that's an issue for non-completions of the course. (NCNZ: CEO)

In Case C, nurse educators did not allow students to progress because they felt unsupported within the educational organisation, but because the mechanisms and tools to fail students were inadequate. The nurse educators did not report lack of organisational support - quite the opposite. They described how they not only supported each other in their decision-making, but were also supported by senior managers within the organisation. The dean reflected this view regarding decisions concerning unsafe students:

The school actually has to provide a case saying that they believe that this person is not safe. And I'm here to support them in that ... so I support their

judgment, and of course I do and if I'd had any questions I'd have asked them long before we got to that stage. (Case C: Dean)

The ex-head of school and head of school considered their professional judgments were backed up when there was an issue of safety. There was support for individual decisions regarding the management of “tricky” students:

I withdraw them and then we let them [CEO/management] know - because they wouldn't know and ... I haven't had them not backup any of those decisions while you investigate and sort things out no, I haven't. ... When it comes to the tricky students with clinical safety there has been immense support ... all the policies from the institution saying that only the CEO can bar people ... and they've just picked it up all the way. (Case C: HOS)

As seen at school level, decisions were made by teams, with the understanding that ultimate accountability for these rested with the head of school. In Case C, the head of school also had the authority to hear student appeals in the first instance. If an appeal was not upheld by the head of school a student could then take the appeal to a sub-committee of the academic board. According to the dean, this process provided all parties with an opportunity to present their case:

For example, if you get an appeal against a grade, the nursing people are right there at every step of the procedure. They're the ones that put the case ... it is their professional judgment. And what I'm doing is saying I'm still beside them because I support their professional standards. (Case C: Dean)

However, this had not always been the experience of the head of school:

What we felt with the process, at that time, was that the student had all the power. And there was no mechanism, once the ... appeal had gone beyond school level, of staff having input to that committee about all our concerns. And I know we got - we did in the end write to the committee and say, “Look this isn't okay” - because in the initial stages of that appeal process they upheld the student. She showed up again, and that's when she ended up leaving. But to start with ... there needs to be a way that we can have our say. (Case C: HOS)

Here, the head of school explained how “we,” the nurse educators, had been left out of the debate, and left out of the decision-making process. However, the discourse of safety was not overtly called upon to emphasise the need for the nursing perspective, or to ensure the voices of nurse educators were heard and not silenced. Unhappy with the

process, the head of school described how she attempted to change this situation, as in Case A, by writing to the committee.

The ex-head of school described a textbook process of organisational administration with clear lines of responsibility, accountability and decision-making. However, she had concerns that decision-making might not only shift from individuals to committees, but that these committees might comprise of members who were not healthcare professionals:

The process here is really quite direct. I mean, the tutors will make a case to their programme leader; the programme leader will have a look at it and make a case to the head of school; the head of school makes a case directly to the CEO. So it's very direct and God forbid that we should ever have a process where a committee of non-professionals decides the progress of students. (Case C: ex-HOS)

The ex-head of school emphasised the requirement for self-regulated health care professionals to be “tried by their peers”:

The whole development of [health professional] Councils in the first place was to have the opportunity for people to be tried by their peers - because people have to be judged within the context of a particular discourse. And if you're not part of that discourse then you can't judge, you can't make a judgment. (Case C: ex-HOS)

This comment reflects the argument put forward by Lyotard and the discourse of justice (Lyotard & Thèbaud, 1985). In these two excerpts it can be seen how the discussion shifts from a modernist paradigm to a postmodern approach, and to the notion of different discourses. In particular, the ex-head of school identifies a health professional discourse and her fear appears to be that committees within the education context might not share this, but might have the authority to make judgments. The notion of nursing and education as separate discourses is important in this thesis and is returned to later.

The issue of committee members, who were not nurses, making decisions regarding appeals by nursing students was also identified as a problem in Case A. In Case C, the third-year co-ordinator voiced her concerns on this issue “because they're not a nurse. They look at it from a purely student perspective so they don't have - or I don't believe

they have - the same perception of the issues of safety that nurses do.” Again, there is the suggestion here of different discourses – nurses who understand the discourse of safety and non-nurses who do not. The third-year lecturer expressed some frustration regarding the organisational processes and also the fact that non-nurses did not necessarily “know what we do”:

As I say, sometimes you think, “Well I might as well just pass everyone on everything” because if you end up failing them it becomes this huge ... performance. But it doesn’t happen often. ... There are - that certain people, directors of the institution, who don’t really know what we do, and don’t really know the complexities of some of the things that we juggle with when we’re assessing students. (Case C: 3rd YL)

This statement echoes the sentiments of the head of school in Case B who considered that the non-healthcare professionals “just don’t get it.” In Case C, the third-year co-ordinator explained how, in her experience, appeal boards would say “yep, one more chance” when students appealed. Other research has shown that clinical assessors feel pressured into passing students, whom they consider have failed to reach a satisfactory standard, because they have found the appeal processes undermining, especially when their decisions have been overturned (Duffy, 2004a; Lankshear, 1990). The third-year co-ordinator reported that she felt “diminished” and “devalued” when appeal boards upheld the student’s appeal, because of all the energy and soul-searching that had gone into making the case and the decision to fail the student in the first place:

And then to have [our decision], it seems, devalued by a quick - because often I think they make decisions and don’t come back to us - it was very often that the student’s perception was presented, which is fine - it should be, but there was no counter. (Case C: 3rd YC)

The ability for a student to consistently appeal was considered the greatest fear by the third-year co-ordinator regarding the unsafe student, because, eventually, the “process would falter,” allowing a “window of opportunity” to break the case. As noted earlier, the fear that due process would eventually break down was also highlighted in Case A and Case B, and acknowledged as an issue in the literature (Dolan, 2003). In addition, the issues of non-nurse educators having decision-making authority over what were perceived as professional nursing problems, especially in relation to student appeals,

was a tension found in Case A and Case B, as well as elsewhere (see Duffy, 2004a; McSherry & Marland, 1999; Pike, 1991).

In Case C, the third-year lecturer talked about her sense of powerlessness in the process of trying to exit the student described by her as a “very, very assertive - very aggressive - student.” This powerlessness was perceived as being created by the situation with the clinical staff reporting and documenting poor performance, then withdrawing this evidence, and then refusing the student access resulting in the student being unable to complete the required clinical hours at the DHB:

And when we set up the clinical placement the clinicians said, “We don’t want her back in the hospital.” So she was exited from the programme because she was not wanted in the clinical. But that’s what it’s taken. It’s taken clinicians to say, “We don’t want her.” Which makes us feel - I mean we’ve known for yonks - and we’ve actually - we’ve been quite mad because we’ve been quite powerless to exit this very, very assertive student - aggressive student. (Case C: 3rd YL)

Here, the third-year lecturer presents the case as if there were no decision-making processes for failing the student within the school, and that the power to fail rested entirely with the clinical placement. However, the responsibility for clinical assessment rested with the nurse educators, and the educational organisation. In addition, the school had known for “yonks” that the student in Case C had ongoing difficulties; they had had ample opportunity to ensure that her performance was assessed and documented appropriately. Case C is fraught with inconsistencies, contradictions and confusion regarding who has responsibility for what. The nurse educators are not so much shifting and swaying, as in Case A, but instead seem to be floundering in a sea of peer group and organisational support.

There was also a sense in which the nurse educators took the line of least resistance, reminiscent of Gilligan’s participants who ‘went along with the tide’, rather than make any hard decisions. This argument is illustrated in the summary below:

I think that ... and this sounds really unfair - and I’d never really thought about it before, but I am now ... you might look at two students both of whom need reassessment and ... we would probably be more likely to give the one who is going to aggressively fight it and contest it - we’d be more likely to give them a reassessment than the one who is going to say “Oh well I’ll re-enrol in it next

year” or “Okay. I need to do that learning. Thank you.” So that’s unfair. That’s not equity...the squeaky wheel and the oil and all that jazz. (Case C: 3rd YL)

The implication here is that the loudest voice wins the day, regardless as to the merits of the argument, or the consequences for the respective players. While the third-year lecturer talked of her powerlessness, the third-year co-ordinator was mindful of her power, not wanting to abuse it. However, she was also conscious of the ‘squeaky wheel’ syndrome:

Our students need to have the right to protection too, because we are very powerful, and so they need to have a way of addressing those powers. But the students are also very powerful. Because I was thinking the other day about the students that we have not achieved in clinical – and [they have] said “Okay. That’s fine. I’ll come back next year and do it again,” and have done really well, and have not appealed. And I’m thinking it’s the squeaky wheel that gets the oil. (Case C: 3rd YC)

In Case C, there was a real concern that, having contested grades and appealed decisions, the student would become litigious and eventually succeed in becoming a registered nurse. The third-year lecturer reported her greatest fear with the student in Case C had been:

Basically, that this person was going to end up as a registered nurse, and my concerns were for public safety. And, yes, so my concern was about the credibility of the nursing profession, and the safety of clients. And probably my next greatest concern would be that we would be up in front of lawyers. (Case C: 3rd YL)

Here, the third-year lecturer places the concern for public safety and the need to maintain professional integrity first, and her concern for herself second. This response is similar to that of the third-year co-ordinator in Case A. The third-year co-ordinator in Case C also had concerns for the nursing profession and patient safety, and includes the student:

I was so concerned about her as a person, and as a student. And also, I was very concerned for nursing - the profession - if this student was allowed to continue and to register and to be a registered nurse. Because my sense was that she was not fit and proper - unchecked by competency assessments on a regular basis she could do more harm. (Case C: 3rd YC)

The head of school articulated the fear that the student in Case C would “take us all the way with the lawyers, the courts and everything.” This fear was shared by the third-year co-ordinator who stated that the student would look at her situation “with a cold eye of legality” and had threatened her with the comment “I’ll see you in court.” This echoes the fears of litigation expressed by the clinical educators in the study by Boley and Whitney (2003) and Smith et al. (2001) and nurse educators in Orchard (1994a). The Chief Executive Officer (NCNZ) also commented that students had become more litigious in recent years and were “putting heads of school into more difficult situations” (see Evans, 1999; Hart, 1998; Palfreyman & Warner, 1998).

In Case C, the team organised a learning contract with the student, articulating clearly the outcomes required, creating possibilities for success (Rittman & Osburn, 1995). The third-year co-ordinator was particularly careful about what, and how, she spoke to the student ensuring that the conversation was documented:

So we set her up with a contract ... trying to be as clear on paper with the student as possible because ... I thought if I get hit by a bus, people will know the conversation that I’ve had. Also to protect myself because I know that she was a student who could potentially be litigious ... because I guess the bottom line was I didn’t trust her - I still didn’t trust her. That’s sad. But anyway trying to put aside the fact that I didn’t trust her I tried to present as fair a picture as I could for her so that she could see what needed to be done, what she needed to do. (Case C: 3rd YC)

The third-year co-ordinator can be seen to be struggling with her relationship with the student in Case C. On the one hand she was concerned for her as a person, but on the other hand she did not trust her, a feeling she wished to “put aside.” She then explained how she sought to protect herself but, at the same time, wanting to be fair.

There are confused feelings and emotions emanating from the situation with the student in Case C. As individuals, the nurse educators clearly thought long and hard about their roles and responsibilities in the education process, and how best to facilitate student learning. However, the nurse educators in Case C did not always take responsibility for making decisions or take appropriate action when required. It could be argued that the strong emphasis on teams helped to direct attention away from individuals, but that the threat of litigation brought the focus back to individuals and their particular part in the

process. In Case C, the organisation was presented as being supportive to students, and the nurse educators had developed their own support systems. Tensions were created and experienced in attempting to implement the organisational principles of fairness and non-discrimination and the school belief, enshrined in policy, that every student was “able to succeed.” In many respects, the apparently benign organisation did in fact create an environment within which the nurse educators found it difficult to maintain personal integrity and honesty. This personal integrity appeared to be intrinsically connected to nurse educators as registered nurses, and not just as educators, and there were tensions between the “two hats” of nursing and education.

Two Hats - Nursing and Education

Case C differentiated between the two hats of nursing and education and identified contradictions between these different ways of viewing nurse education. The tension between being a registered nurse and a nurse educator was summed up succinctly by the third-year co-ordinator as follows:

And that’s that tension between education and nursing that as a programme leader I felt very strongly that, with my nursing hat on, “I do not want this student anywhere near vulnerable patients.” With my education hat on I’m thinking of “what are the strategies I need to put into place to support this student to develop the competencies that you actually need to practise as a nurse?” And that is the real tension - that is the nub of some of the issues that we face. Nursing is about client safety and client protection, and education is often about student rights and student protection. And so where the two things clash there is often a difficulty. (Case C: 3rd YC)

Nowhere in this description are nurse educators described as educators per se, separate from their identity as a nurse. Furthermore, the second-year lecturer raised the issue of the differences between educators and nurse educators, emphasising the professional concerns of nurse educators as registered nurses:

I think that, as an educator, as a nurse educator - and I think there’s a difference between an educator and a nurse educator ... that always being aware of the fact that the people that you’re working with are going to be looking after, perhaps, your mother. If I thought somebody was going to be looking after my mother - that’s a bit of a standard for me...so I guess it’s that. (Case C: 2nd YL)

This observation, together with the bottom line discussed in Chapter Five, highlights the difference between the responsibility of a nurse educator and a non-nurse educator in the hypothetical scenario of the ‘mother being nursed’. It is argued in Chapter Nine that non-nurse educators do not have the same statutory responsibility to be accountable that a registered nurse does, and this distinction is crucial.

In Case C, the second-year lecturer described how the nurse and the educator inside her were “entwined.” She described how she thought that she had “grown up as an educator” and now, instead of expecting all students to succeed, she concentrated on “honouring the incredible journey” they made. The third-year lecturer described how she had changed her attitudes when she entered nurse education from nursing practice:

So - and I don't think that the word - from when I was actively nursing - I don't think the word ‘empowerment’ - it was not big in my nursing vocabulary and I would probably - did too much ‘doing for’ rather than ‘doing with’. When I moved into education I realised pretty quickly that nobody was winning using that formula. So my philosophy now is certainly far more about moving people to independence. (Case C: 3rd YL)

This shift in philosophy echoes that of the third-year co-ordinator in Case B who had “ditched” the need to be needed when she began teaching, and the programme leader in Case A who had become “tougher.”

The ex-head of school, perceived nurse educators as being more or less clinically orientated:

I think that nurse educators are on a continuum of being primarily educators, who have a nursing background, through to clinicians ... their clinical practice at the moment is expressed through teaching students. And on that continuum then I think that the safety discourse for the educators tends to be more in terms of looking through the students - from a students' point of view. For the clinician educators, it's more about standing in the culture of practice and seeing safety from a practice position. (Case C: ex-HOS)

The notion of swaying between education and nursing resonates with the other two case studies. The head of school in Case B emphasised how she had maintained a strong clinical focus as a nurse educator, and exercised her professional nursing judgment in her decision-making. The head of school in Case A talked about how nurse educators

would put their ‘nurse’s hat’ on when a student was ill, and vicariously nurse the student, rather than put on their ‘educator’s hat’. In Case C, the ex-head of school uses the notion of a discourse of safety and then looks at how nurse educators position themselves within this.

In Case C, the ex-head of school described how huge changes had occurred in the educational environment, particularly in implementing the educational reforms of the 80s and 90s (see Boston et al., 1996; Marshall & Peters, 1999; Peters & Roberts, 1999). She acknowledged that the “building and development of quality systems management processes” had, over time, “created within the institution tensions between needing to be supportive of students and, at the same time, needing to be transparent and accountable in the quality of what one was providing” (see Codd, 1999; Curzon-Hobson, 2002).

In many respects, the ex-head of school identified the major theme in Case C. She described her concern that nurse educators seemed unable to exercise their professional judgment within the framework of the educational organisations’ rules and regulations:

I think that one of the things that concerns me with the regulations and the rules and the processes that are developed and formalised in the BN programmes ... is that I find it harder and harder for tutors or lecturers to understand that these are the rules - but use your professional judgment. The exercise of professional judgment – actually, that’s what I think I pay staff for - is that, in this context, in relation to this, is the ability for people to know what’s important, and what’s not important, and to be able to use their judgment in relation to that. (Case C: ex-HOS)

These comments reflect Aristotle’s argument, mentioned in the literature review, that there are dangers inherent in using rules without judgment. This in turn raises the issue regarding when and how professionals are able to use their professional judgment, and that the context in which they can do so must be safe, and trustworthy (see Brien, 1998; Codd, 1999; Curzon-Hobson, 2002).

The need for heads of school to be clear about their responsibilities regarding professional judgments and making decisions within the educational context was

emphasised by the Chief Executive Officer (NCNZ). She confirmed that the Nursing Council could intervene if necessary, but only as a last resort:

We have had a couple of programmes and tried to give a bit of support for the head of school in their organisations, but we don't actually think in fact we should be doing that. We think really you ought to be able to manage that yourself. But, at the end of the day, if you absolutely - I mean if you were accountable for - at the end of the day you couldn't ... if you were in an environment where you couldn't exercise your professional judgment then the Council would have a few concerns about the school, in fact, and about the management of the school, because that's what we expect of our heads of school. We expect someone who's clear about their professional responsibility and is capable of taking that delegated function of Council and exercising that responsibility. (CEO: NCNZ)

Moral Voices and Moral Selves

In Case C, moral voices and moral selves are not neatly separated. The nurse educators speak with a unified voice of care and responsibility. They are anxious to avoid prejudice and discrimination and wish to be fair and find balance in their actions and deliberations. They are focussed on the student herself, and not just the rights of the student. They voice care and concern; the need to be fair and non-discriminatory is not just the application of principles to problems and issues. However, the nurse educators appear to have blurred boundaries regarding the student and the management of her performance. The nurse educators report tensions between being the 'nice nurse' and the nurse educator who hurts students by failing them. Furthermore, they perceive the student failure as their own failure, not that of the student. The nurse educators are aware of this tension and have attempted to change both their processes and behaviour, for example the giving of direct and honest student feedback.

In many respects, the behaviour of the nurse educators in Case C reflects the descriptions of women participants in Gilligan's *In a Different Voice* (1982). Gilligan found that when women were making difficult choices that they perceived as threatening to themselves, their response was one of survival. However, choices were considered 'selfish' by those women who were uncomfortable with placing their own needs above those of others. Once women accepted that their own needs were legitimate, they were able to shift to taking responsibility, but initially this may result in

taking responsibility for others rather than themselves. Gilligan describes this mode of thinking and behaving as 'selfless'. This situation also enabled women to portray themselves as victims of circumstance, and as passive recipients of other people's irresponsible behaviour.

Gilligan considers that the moral voice of care and responsibility matures into one whereby women come to accept responsibility for themselves while maintaining consideration for others. Conflict then arises from competing responsibilities, not rights, and each choice and decision is made depending on the context. In Case C, it is as if the context and circumstance, specifically that of the organisational philosophy and school policies, have set the scene so that nurse educators, who understand their responsibilities as nurses and educators, find themselves in situations of ambivalence. Worse, they take on board responsibility for student learning, and so disempower the student. Gilligan argues that this type of morality arises from the interplay between self and others which is reduced to an opposition between self and others. The relationship is one of dependence on others, not interdependence, and is equated with responsibility to care for others. This situation gives rise to feelings of obligation, a need to give to others without taking for oneself but which, in turn, becomes dishonest and self-deceiving. Gilligan describes how responsibility can be reversed whereby a person considers they are responsible for the actions of others, while others are responsible for the choices the person makes. This position locates mutual care within a relationship of dependence, disguising assertion as response which becomes potentially immoral in its power to hurt (Gilligan, 1982, p.82). The result can be that the person becomes paralysed and unable to initiate action or thought and tends to 'go along with the tide'. In the end, everyone feels manipulated and betrayed.

Ferguson (1984) draws attention to the fact that Gilligan fails to consider the political context within which males and females develop their voices, a point also made by Friedman (1993). In a later publication, Ferguson (1993) argues specifically that those who lack a sense of themselves as agents, as capable of acting and taking responsibility for their actions, are disadvantaged in a society based on the juridico-legal discourse (1993, p.60). From this analysis, Ferguson argues it can be understood why many of the women in Gilligan's abortion study suffered from a sense of paralysis and an inability to act leading to a self defined as uncertain. However, in Case C, the context is not

presented as being overtly hostile; there are no descriptions of authoritarian male or female figures. What there does appear to be is a lack of authoritative processes and people. Self-doubt is present amidst ineffective assessment strategies. It appears in Case C that inaction is a result of this situation, rather than as a defensive reaction to a dominant, hegemonic, modernist quasi judicial-legal discourse, as found in Case A. This raises questions regarding nurse educator's moral selves and their subjectivities.

Moral Language Games

In Case C, the dominant organisational discourse was one of care and responsibility. Whilst this provided a nurturing environment for the student, the nurse educators presented as being fearful that, if students fail, it would be because the nurse educators were found wanting, not the students. It is argued that one survival strategy employed by the nurse educators, to avoid being found wanting as individuals, was making decisions as a team. This strategy avoided having to take individual responsibility for decisions, even though the structures and processes were the same as those for Case B with authority for decision-making being invested in specific roles. The consequence in Case C was not to become hard-nosed or make hard calls, as it was in Case B, but to create teams and avoid confrontation. Collective decision-making, and consensus seeking not only avoided taking individual responsibility, but also avoided personal conflicts. In Case C, this activity in the context of managing the unsafe student resulted in a somewhat messy outcome for both the student and the nurse educators.

Nurse educators attempted to implement the organisational policies with integrity, but they also had to implement the professional requirements of nursing, and the need to protect the public. In managing the unsafe student they were obliged to produce evidence according to an educational discourse of assessment and evaluation. However, there were difficulties in finding the language with which to do this in the practice of nursing, and caring, and professional judgments. In Case C, there seem to be conflicting discourses such as an educational discourse of care and responsibility with that of the discourse of performance assessment and measurement produced by the scientific and positivistic educational paradigm. In addition, the nurse educators positioned themselves firmly within a nursing discourse, as *nurse* educators. For example, the head of school used the nursing discourse of safety to defend her

professional judgments regarding not signing the student off to sit the State examination. However, in Case C, using Gilligan's analysis, the moral voices of care and responsibility of the nurse educators remained immature. They did not articulate the discourse of professional nursing as a language game or use this to legitimate decisions, as took place in Case B.

Summary

The principle of fairness and non-discrimination, together with the emphasis on student support, provided a strong, caring organisational culture in Case C within which to teach and learn. However, the ways in which the specific organisational policies of support and clean slate were interpreted had serious consequences for the nurse educators, and students. I would argue that tensions and expectations were created when the school of nursing assessment policy re-interpreted the organisational concept of student potential, and willingness to learn, into students actually having the necessary ability to succeed. Immediately the onus was on the nurse educators to ensure that they not only transmitted the required knowledge, but that the student received the necessary support. Their apparent translation of the policy set up a situation whereby they took responsibility for student learning, not the student. However, because they did not believe that all students were able to succeed they were, in effect, setting themselves up to try and achieve the impossible. In this scenario the student's responsibility was invisible, the lecturers were not in control of the learning process, but they perceived themselves as being responsible for student success, and failure. In addition, if the student failed then this required explanation and justification by nurse educators as to how *they*, and not the student, had failed. These difficulties were then added to those perennial problems found in education identified earlier.

In Case C, the school processes for failing students were themselves failing, a situation not helped by the need to implement an organisational philosophy that appeared to compound the problems rather than facilitate solutions. Given this context, it is not surprising that nurse educators found it difficult to fail students. However, it was nurse educators themselves that gave the benefit of the doubt, and were too generous; behaviours over which they did have choice and control. As in Case A, nurse educators were concerned that they might hurt the student, and that they were being 'un-nurse

like' when failing a student. At the same time, they acknowledged they had a responsibility to 'not always be the nice nurse'. Overall, the nurse educators appeared to recognise their various moral and professional responsibilities regarding the management of unsafe and failing students, but these were not accompanied by the necessary, or appropriate, actions. Indeed, nurse educators could be seen to relinquish responsibility for monitoring student performance in the clinical area to the clinical mentors and preceptors. In turn, the clinical staff were then accused of relinquishing *their* responsibility to supply the required evidence of the student's poor performance, even though nurse educators were guilty of the same behaviour. Nowhere, however, is there acknowledgement that students might have responsibility for their own learning, or that failing is one consequence of poor performance or unsafe practice.

In Case C, while the content of the moral language game of the nurse educators was one of care and responsibility, their moral voices were not developed and so the moral selves that were produced by these discourses were ill defined and ambiguous. This observation is supported by the fact that moral agency was expressed via teams rather than as individuals, and consensus was reached before decisions were approved. It was always *our* voice and never *my* voice. As in the other two case studies, there were tensions in Case C between the nursing and education discourses. All three case studies described how they used a statutory discourse of nursing, usually the language game of safety, to try and ensure public safety within the educational context. The next chapter examines in more detail the different statutory voices of nursing and education and also issues of performativity and accountability.

CHAPTER NINE

LOCATING ACCOUNTABILITY

Each of the three case studies presented in this thesis is unique. As participants described their processes of moral reasoning and decision-making different moral voices emerged. The moral voices varied with each case study, each individual, and the context and climate of the educational environment. The management of unsafe students, within the different contexts, reflected different moral language games constructing different subjectivities, and moral selves. Each case study demonstrates Gilligan's thesis that who we are and what we know cannot be neatly separated. In addition, the cases affirm Hekman's claim that what we do, our actions and activities, reflect who we are and what we believe, and the moral language games we play.

This chapter locates the case studies in the wider context of the tertiary education sector. The tensions between the two hats of nursing and education are linked to the Nurses Act (1977) and the Education Act (1989) and the presence of differends within each case study are identified. The focus then turns to the discourses of education and nursing and these are linked to the issue of accountability. The ways in which nurse educators used safety strategies in each of the three case studies are then discussed. The issue of care (and caring) is then revisited in the final chapter.

Statutory Discourses - Education Act and Nurses Act

Nursing and education are both informed by bodies of knowledge and philosophies of caring, and teaching and learning, respectively. Each of the three case studies presented in this thesis has shown how these different philosophies result in conflicting ways of managing unsafe students. As seen, in all three case studies nurse educators experienced tensions with their two hats of nursing and education. Nurse educators understood that the tensions they experienced were not just about different professional philosophies, but were also informed by statutory requirements, a point noted by Churchman and Woodhouse (1999). Tensions between the requirements of the Nurses Act (1977) and the Education Act (1989) bring the focus back to the protection of public safety, and the

rights of the student as set against the rights of the public. Participants from each of the three case studies were able to articulate these tensions, and reflect the moral voices and context of each school of nursing at the same time:

And that really is the crux of the matter - on the one hand we're meant to be completely supportive of the students' learning needs and educational rights and yet, by default, we are also protectors of the public safety. And yet that is never verbalised in the statute, and the processes, and you can only run to your professional documentation and hope like heck that the institution is going to recognise the importance of it. And if you get to a process like the faculty academic committee, or further up - appeals to the dean - or to the academic board - there is likely not to be a professional voice. And if there is, the professional voice is significantly marginalized as a point to be taken into consideration because they only see the Education Act apply. (Case A: HOS)

Here, in Case A, the different competing statutory demands, of the educational rights of students and the protection of the public, are identified as the "crux of the matter." However, the protection of the public is identified as a specific requirement of nurses, and is therefore part of the professional voice of nurses. This voice is portrayed as vulnerable to being silenced and marginalised by the dominant discourse of education, and by the education language games played by committees, appeal panels and the academic board because "they only see the Education Act apply." Using Lyotard's notion of legitimation, I would argue that the description given above by the head of school is not only an example of how the educational language game legitimates itself, but also demonstrates behaviour that is 'terrorist', that is, "the efficiency gained by eliminating, or threatening to eliminate, a player from the language game one shares with him. He is silenced or consents, not because he has been refuted, but because his ability to participate has been threatened" (Lyotard, 1984, p.64). In this situation it is understandable why the dean in Case A might be considered 'less than brave', to use Judge Cartwright's phrase, in her perceived powerlessness to change the educational structures and processes.

In Case A, there was a strong adherence to the organisation's 'statute', the academic rules and regulations, by the 'process people'. These individuals attempted to fight processes with processes, using documentation, and the statutory rules and regulations, to persuade committees and panels and boards. However, by positioning themselves within this language game they did not challenge the procedural rules and the

bureaucratic discourse as such. Instead, in making the case and presenting it, participants used the rules of procedure and sought to convince and attain consensus within the rules of that language game. It could be argued that participants attempted to change the rules of the education language game by proposing changes to organisational policy, specifically to include nurses on all committees responsible for writing and implementing policies, and reaching judgments on nursing students. This strategy failed and the tensions created by the incommensurable discourses of education and nursing in the management of unsafe nursing students remained.

In Case A, the moral dilemmas created for those with moral voices of justice and rights, and care and responsibility, as described in Chapter Six, took different forms. As discussed, those with a justice and rights moral voice failed to resolve the dilemma of competing rights of students and the public, using the dominant bureaucratic discourse of education. The statutory obligation of nurse educators as registered nurses was not part of the education discourse and so was not recognised as such. There was, therefore, no litigation that could be used to resolve the dilemma. The moral dilemma created by the dispute between the competing language games of nursing and education was a differend (Lyotard, 1988).

For those participants verbalising a care and responsibility voice, the situation was mixed. For example, the programme leader in Case A considered the student was entitled to education and that the issue of fit and proper and good character was divorced from the matter of obtaining a degree. By contrast, the third-year co-ordinator considered that the nursing discourse of safety overrode any rights of the student within the educational discourse. Her appeal was for the requirements of the nursing discourse to be taken seriously by the educational discourse as expressed via processes and structures. The multiplicity of language games created various moral dilemmas. Where these were experienced, the underlying factor was the conflict inherent between the nursing and education discourses. Each course of action could be interpreted as a question of pursuing the lesser evil, and minimising potential damages rather than the pursuit of best practice.

In Case B, the head of school used the language game of professional nursing, including the phrase ‘professional judgment’, in order to trump the language game of education.

In addition, the dean privileged professional knowledge within each discipline and so in Case B, in Lyotard's terms, those who were 'in authority' gave way to those who were 'an authority'. This situation provided the means for ensuring public safety in that particular tertiary education context. However, the head of school's use of language as a strategy to make her case and safeguard public safety was only effective because both the dean and she had agreed the rules of this particular language game. In this instance the nursing discourse was legitimated, and the decision-makers proceeded on the assumption that there was commensurability and common ground. At a later point in her interview, the head of school re-iterated her concern that the current legislation created the potential for conflict between competing rights - those of the student to receive education, and those of the patient to safe care:

And it all links to the rights of the individual and all that - it's not just about education, it's about people's rights to be whatever they want to be, and all that sort of thing. Which is great, but not when it impacts on other people's rights ... and, in effect, what happens is, if you have people who aren't able to function at the appropriate level, struggling along because that's what they want to be, and it's a free world, there's actually other people that can get affected and harmed by that. (Case B: HOS)

Here, the head of school moves the discussion beyond education to the wider traditional moral argument of people's right to be what they want to be. This position directly reflects an individualistic, utilitarian philosophy, and a justice and rights perspective. This view holds that the pursuit of self-interest is perfectly acceptable, providing that it does not interfere with the rights of another or, in this case, that of the public. The head of school presented the problem of the rights of the student competing with the rights of the public as arising from the clash between the two Acts of Parliament:

I think it's very much that tension between the Nurses Act and the Education Act. That the Education Act is saying, basically, that people have a right to complete their qualification, and so the institution, operating under the Education Act, works with a student focus. They say, "What is the fairest, kindest, most appropriate thing to do for the student in order to support them to complete their qualification." That's the purpose of the educational agency - it's there to support people to get their qualification and, as a general rule, it will pull all stops in order to do that. On the other hand the Nurses Act is saying, "Is this person safe to register?" And the whole nursing registration is about public safety ... and so in making our professional judgments about someone's ability to continue on the programme, it's not putting the student at the centre, it's actually saying, "Are they safe?" And when they're not, that over-rides the

rights of the student. And that's the real difficulty because the institution just has a different philosophy and a different focus. So, in their judgment, the rights of the public to safe care sort of don't fit their equation in terms of determining, "Does this student have the right to have another go at this course?" And that's really, really difficult. (Case B: HOS)

Once again, the dominance of the justice and rights moral voice is illustrated in this case. The arguments are phrased in quasi judicial-legal language. Professions are presented in opposition to each other, as an 'us and them' scenario, and professional nursing requirements are pitched against professional educational rights. The head of school used the metaphor of a mathematical equation, similar to the way in which Jake approached the Heinz dilemma (Gilligan, 1982). There are principles of fairness to be weighed against individual rights. According to the head of school, this situation is unambiguous; the rights of the public take precedence over the rights of the student. However, there remains a problem on the educational side of the equation where the rights of the public to safe care just do not 'fit'. Indeed, the head of school expressed her frustration because the non-nurses "just don't get it."

In Case B, the head of school made it quite clear that if students threatened public safety, then the Nurses Act (1977) took priority and educational rights should be relinquished. However, as seen in Chapter Seven, the dean argued that the education organisation had no part in deciding the suitability of a student for the nursing profession, and so in his opinion the Education Act (1989) came first. Conflict is created by the implementation of the two Acts of Parliament and underpins the dilemmas posed by the *Malster vs Manukau Polytechnic* judicial review and the position of the NCNZ (see Chapters Two and Five).

The different statutory discourses, of education and nursing, are made visible in Case B and are shown to be incommensurable. It is argued here that the hypothetical dilemma between the rights of the students to education and the rights of the public to safe care in Case B presents as a differend. Neither side of the equation can be resolved without making one side, or both sides, wrong. One side's legitimacy does not imply the other side's lack of legitimacy and there is no single rule of judgment that can settle this differend. However, in Case B, this differend was not experienced in the management of the unsafe student. Until the educational discourse becomes the dominant language

game in the decision-making process, perhaps through the introduction of a committee structure as anticipated by the registrar, the professional nursing discourse is listened to and heard. This situation is facilitated by the shared voice of justice and rights, as a moral language game, in this particular case.

In Case C, the dilemma was phrased not with the moral voices of justice and rights or care and responsibility, but simply as the clash between the rights of the student and the rights of the public and the two discourses of education and nursing:

I felt very strongly that, with my nursing hat on, “I do not want this student anywhere near vulnerable patients.” With my education hat on I’m thinking of “What are the strategies I need to put into place to support this student to develop the competencies that you actually need to practise as a nurse.” And that is the real tension - that is the nub of some of the issues that we face. Nursing is about client safety and client protection - and education is often about student rights and student protection. And so where the two things clash there is often a difficulty. (Case C: 3rd YC)

Here, the different activities of nursing and education are highlighted. The articulation of the two hats dilemma demonstrates the tensions faced by nurse educators with unsafe students in the education context. There is no recourse here to any justice and rights moral framework. The dilemma is not a logical process of needing to figure out which principle takes priority in these circumstances. In Case C, the dilemma is personalised and revolves around what actions should be taken by individuals in order to fulfil conflicting needs, rather than competing rights. This is congruent with the argument presented in Chapter Eight whereby the participants’ moral voices of care and responsibility remained under-developed and they tended to take too much responsibility, avoiding making decisions they perceived might leave themselves vulnerable or result in hurting students. In Case C, the nurse educators could also be perceived as being ‘less than brave’, but for very different reasons to the dean in Case A.

In Case C, the nurse educators emphasised the difficulty of finding the appropriate language to use to describe the student’s poor performance and so fulfil the need to provide evidence in measurable and quantifiable terms. Even though the organisation and the participants demonstrated a strong moral voice of care and responsibility, the

need to conform to the positivist paradigm of educational assessment and evaluation dominated.

Once again it is argued here, that in the particular context found in Case C, the dilemma is in fact a differend as defined by Lyotard. The differend is irresolvable; wrongs result when the rules of the education discourse are used to resolve the conflict created between the different discourses of nursing and education. Similarly, wrongs would result if the rules of the discourses of nursing were used to judge the genres of the discourse of education. Ultimately the situation remains unsafe if the rules of the discourse of education are used, as the more powerful and dominant discourse, to silence the problems produced by one of the language games of nursing, that is, the discourse of safety.

In Gilligan's study of different voices, women who faced making difficult decisions frequently articulated their dilemmas as having to make a forced choice between two evils. In this situation, they recognised that someone was going to be hurt, regardless of the decision. It could be argued that a moral dilemma has considerable resonance with Lyotard's notion of a differend. Traditionally, there has been an attempt by the dominant justice perspective to subsume the care perspective by translating the latter into a form of moral litigation, a type of inferior moral reasoning subject to the same rules as that of the justice voice. Gilligan argues that people can appreciate the two different voices, although they are only able to apply them independently of each other (like images in a Gestalt picture). Friedman argues that the two voices can be integrated. However, Hekman provides an alternative interpretation - that of two incommensurable voices. I argue in this thesis that in all three cases it was not possible to resolve the differences created by the incommensurable discourses of education and nursing, because there was no common set of criteria accepted by all parties that allowed them to be adjudicated. The differences were in fact conflicts and, I would argue, formed differends as described by Lyotard. Lyotard argues that wrongs arise from the conflicts inherent in differends. This situation begs the question of where accountability rests regarding these wrongs, and is similar to the question posed by Boston et al. (1996) regarding the implementation of the New Zealand model (see Chapter Two, p.40).

Accountability: Education and Nursing

As noted in Chapter Two, one of the objectives of the new model of public management in New Zealand was to improve accountability in public sector institutions. In order to measure the inputs and outputs associated with this model new mechanisms of audit and performance measurement were introduced under the banner of 'quality assurance'. These activities can be seen as one means of implementing the neoliberal reform process and have been identified with Lyotard's notion of 'performativity' (Ball, 2003; Barnett & Standish, 2003; Bloland, 1995; Peters & Roberts, 1999). Lyotard opposes the legitimization of education - that is, the acquisition of knowledge and skills primarily for the operational efficiency of society, through performativity. In this case, performativity is determined by a cost-benefit or input-output analysis. In tertiary education, one measure of performativity is translated as the numbers of students entering the tertiary sector and, attracting greater emphasis now, the numbers of students successfully completing programmes. However, if education is to be measured using this type of equation then, I would argue, the cost-benefit of graduating unsafe or 'bad' nursing students should be taken into consideration. In turn, the question is raised of where accountability for this situation might rest – in the education sector or with the nursing profession?

Churchman and Woodhouse (1999) explore what they term political accountability, that is the contractual relationship between government agencies and professional schools in tertiary education, as being mediated via statutory bodies. Churchman and Woodhouse argue that professional education emphasises instrumental learning, while tertiary education focuses on the intrinsic value of learning. The Education Act (1989) appears to support the view of education for its own sake, for its intrinsic value to the individual. It could be argued that this is now somewhat anachronistic within the context of the neoliberal reforms, with so-called education providers functioning more like businesses and students behaving more like consumers (see Peters & Roberts, 1999). A further issue is raised within the context of neoliberal government educational policy. This matter concerns how students, as self-contained, rational, autonomous, utility-maximising choosers, regard the rewards of nurse education, without the prospect of practising as registered nurses. Lyotard (1984) argues that knowledge does not have

any intrinsic value when legitimated via performativity. Here, Lyotard's concepts of the use value and the exchange value of education are relevant.

The exchange value of a degree in nursing, together with NCNZ registration, is not in question here. Indeed, the exchange value of this educational and professional qualification is amply illustrated by a significant percentage of the nursing workforce of New Zealand departing each year to work as registered nurses overseas. However, Churchman and Woodhouse argue that professional degrees should be academic rather than narrowly vocational, and that they should be of value to students "even if they never practise in the profession concerned" (1999, p.221). It would appear from this argument that obtaining a degree in nursing, without the licence to practise, is equally valuable.

In all the cases presented in this thesis, the Education Act (1989) is the legitimating authority called upon by participants to validate the view that individual students are entitled to education, so long as they are deemed to benefit from it. As such, knowledge within this particular educational discourse is deemed to have intrinsic value for the student and is not solely concerned with performativity. However, as the head of school in Case B noted, it is not clear what benefit there is to graduates in having a degree in nursing, large debts, crushed self-esteem and no licence to practise after several years of study.

In Case B, the dean emphasised that he considered the Education Act (1989) came first, and that according to the Nurses Act (1977) the educational organisation played no part in deciding if someone would make a 'good' nurse or not. As such, it was the right of the student to receive their education regardless of their nursing potential. In Case A, the programme leader considered that the student's behaviour, the committing of a fraudulent act, was not valid grounds for stopping her completing her degree. In all three schools of nursing in this study, there were reports of students obtaining degrees in nursing, but whose applications for registration had been refused by the NCNZ. In the present study, the students have no voice, but the question as to who decides the intrinsic value of the educational experience, in the seeming absence of any instrumental or exchange value, needs to be answered.

Lyotard argues that the commodification of knowledge is a characteristic of the postmodern condition and involves a fundamental change in the relationships between the learner, knowledge and learning, resulting in “a thorough exteriorisation of knowledge” (1984, p.4). Ball argues that this process also involves a profound change in the way in which teachers relate to their work (2003, p.226). As noted in Chapter Two, using Lyotard’s notion of the ‘terrors of performativity’, Ball considers performativity and neoliberal education reforms not only changes what academic work and learning are, but also changes what academics do and who they are. In this study there were examples in each of the three cases of how moving into the tertiary education sector had involved a fundamental change in philosophy for some nurse educators. For those who articulated this change, for example the programme leader in Case A and the third-year co-ordinator in Case B, this had entailed becoming ‘less caring’ and ‘ditching’ care. Instead, caring shifted to the world of performativity and the need to care about inputs and outputs, and where the primacy of caring relations between teachers and students has no place (Ball, 2003). These nurse educators provide examples of how their subject positions changed according to the discourse they adopted and the language games they played within the tertiary education context.

The work of performativity also produces what Lyotard terms the ‘the law of contradiction’ whereby there are tensions in the need for nurse educators to teach, research and engage in educational activities as well as ensure the requirements of quality assurance and monitoring are fulfilled. In addition, this study has highlighted the tensions for nurse educators in implementing the requirements of the Nurses Act (1977) and the Education Act (1989). The registrar in Case A clearly articulated the link between performativity and accountability in tertiary education, and the different, professional responsibilities of the NCNZ:

I think that, well you’ve got a number of perspectives haven’t you here? I think that we have the responsibility to clearly define our deliverables, our education deliverables. And they need to be highly transparent and very public ... and we need to ensure that we manage our students and don’t qualify them if they don’t meet it. So I see that as our accountability. The issue of registration to practise I see as a Nursing Council responsibility and at the cusp there’ll be areas of blurriness ... but ultimately I see that [the] assessment for the fit and proper person for registration to be the Nursing Council’s responsibility, and they take full responsibility for that. (Case A: Registrar)

The Chief Executive Officer of the NCNZ summarised the situation as follows:

So our stance is that we don't actually have a role with students in the programme, but because Council actually delegates to Heads of Schools the sign-off at the end of the programme - whether they're fit or proper to register - we believe that Heads of School really need to ... take those professional responsibilities really seriously and somehow do their job properly. Like it doesn't make it any easier for the educators ... so that the educator is looking at the public safety at the end, and right through the programme, at the same time as giving the student a fair go. And in fact when we audit a programme we have got both of those. (CEO: NCNZ)

As noted in the literature review, there is an absence of any debate regarding accountability for public safety in the tertiary education context even though this is where the majority of healthcare professional education takes place. Instead, accountability is linked with quality assurance and audit. Horsburgh (2000) emphasises the accountability-led approach of the NCNZ in quality monitoring of undergraduate nursing programmes, and how accountability, rather than quality, is the focus. Interestingly, Horsburgh argues that it is quality monitoring that is the vehicle through which accountability is addressed. Accountability in this instance is viewed as the obligation to report to others, to explain, to justify and answer questions about how resources have been used and to what effect (Trow 1996, p.32 cited in Horsburgh, 2000). This type of accountability is an obligation to conform. By contrast, Codd argues that the educational practitioner must exercise professional discretion even though this may constitute a refusal to conform with management requirements (1999, p.52). This study has demonstrated how difficult it is to maintain integrity, and exercise internal accountability, including professional responsibility, within an educational context that operates external forms of accountability, including performativity (see Chapter Two).

The idea of accountability being personal, as well as structural, is addressed in the nursing debate on this subject. Sinclair (1995) reports finding two discourses of accountability and five forms of accountability in her study of public sector agencies. The two discourses, one labelled personal and one labelled structural, enabled individuals to hold, at the same time, opposing feelings about accountability while constructing a sense of themselves as accountable. The structural discourse constructed accountability as contractual, and part of the structural system. In contrast, the personal

discourse of accountability was constructed as vulnerable, functioning to admit risks and failures and was considered to be very close to a person's sense of self. Participants positioned themselves variously within these two discourses. In this way, shifting between the different discourses, they were able to avoid feeling overwhelmed by vulnerabilities, or from becoming so detached as an agent of structure they were unable to feel accountable. The present study has shown how the different participants positioned themselves, and were positioned, by the different discourses of education and nursing. In many respects, the swaying found in this research between the rights and justice moral voice and the care and responsibility moral voice, as described in Case A, bears a strong resemblance to the shifting found in Sinclair's study.

I have argued in this study that accountability for public safety is made personal, as an individual responsibility of every registered nurse, via the Nurses Act (1977). Jacobs (2004) argues that the codes of conduct produced by nursing councils have at their core a sense of personal accountability, and registered nurses must be able to answer for their actions. Manthorpe and Stanley (1999) argue that nurse educators are distinguished from their colleagues in the tertiary education sector by virtue of their accountability to professional or statutory bodies, and also to those who will eventually use the services of the graduates from professional programmes. In many respects, this situation was reflected in the discussion of the bottom-lines, the litmus test of safety and the way in which nurse educators resorted to the discourse of safety, not because it was effective, which it was not, but because they experienced the accountability for public safety as a personal accountability.

It is not the intention of this research to claim any exclusivity of moral dilemmas in the management of unsafe students in nurse education. The work of Churchman and Woodhouse (1999) demonstrate that this is clearly not the case and that other health care professions also experience tensions between the requirements of professional statutory and regulatory bodies and those of tertiary education providers. It is anticipated that members of other health care professions involved in delivering education within the tertiary sector will experience the 'shock of recognition' when reading the case studies presented in this thesis.

Safety Strategies

As seen in Chapter Five, registered nurses are expected to ensure a safe environment for patients in the health care context, and nurse educators are expected to ensure that students do not pose an unacceptable risk to patient safety.

Nurse educators in the three cases presented in this thesis adopted various strategies, such as ‘covering your butt’, ‘passing the buck’, ‘being hard’ and teamwork, to ensure their own, personal safety. In addition, strategies were adopted to safeguard students, for example, ‘not going soft’, acknowledging the detrimental consequences of the tyranny of kindness, and using language that ‘carried weight’. Other strategies involved manipulating the statutory rules and regulations of the Nurses Act (1977) to hinder or facilitate student progress and completion. The head of school in Case B gave one example of this strategy:

I guess that’s where nursing - we’re lucky we’ve got the ‘fit and proper’. We’ve got the business about the clinical - not repeating clinical - or not enrolling in clinical more than twice. And the other thing we’ve got is the timeframe - you can’t have more than a year out. So we’ve actually got some protection from the Nurses Act ... those things are factors you can grasp at to help protect public safety really. And if they weren’t there it would be the Education Act just running riot. (Case B: HOS)

In this excerpt, the head of school describes how she manipulated the rules and regulations of the Nurses Act (1977) in order to stop the Education Act (1989) “running riot.” Participants in the other two case studies also admitted to using the timeframe of the NCNZ, and the clause disallowing a student a third attempt in a practice module, to stop unsafe students completing or progressing. This behaviour was reported as a last resort, as almost clandestine, or underhand. It could be argued that this discomfort was a result of the fact that, like counselling a student off a programme, the activity lay outside the formal educational processes. For those following the rules of the quasi-judicial-legal discourse of education it was not possible to show that natural justice and due process had been followed in these circumstances. As such, both students and nurse educators were placed in vulnerable positions.

The refusal to sign-off a student for the NCNZ examination and subsequent registration was also regarded as a last resort in attempting to protect the public. Signing-off

students was an activity entrusted by the NCNZ to individual delegated authorities within schools of nursing. The Nurses Act (1977), but not the Education Act (1989), specifically covered the legislation for signing-off a student. As such, the educational organisation could relinquish responsibility for it. Any subsequent student appeals were the business of the NCNZ and not the tertiary institute, as acknowledged by the dean in Case B. However, the non-nurse participants in this study, while accepting that the situation may arise whereby a student was not signed-off, did not recognise this decision as a safety strategy. Instead, the decision was considered as a professional nursing judgment and one, therefore, which simply did not concern the education organisation. In the three case studies presented in this research, not one of the non-nurse education administrators or managers reflected on how, when a student failed to register, or a head of school refused to sign a student off, this situation might have some significance for the educational process. Ironically, the dean in Case B actually admitted to a mistake in trying to use the Education Act (1989) to fail a student, on a different healthcare professional programme, because of the difficulty in obtaining professional evidence:

We, in the first instance, chose to use the Education Act [on] grounds of insufficient academic progress rather than going and digging for the more difficult evidence ... of practical risk that were also there. We had two separate strings to our bow, but we picked the one that was easiest to use. And that was a bloody silly thing to do. Because the other one's the really critical one. And we're going to pay for that in the next month or two. (Case B: Dean)

In some respects, this statement highlights many of the issues raised in all the case studies. Not only did the educational structures and processes not provide the wherewithal for failing unsafe students, but also the dean in Case B acknowledges that providing evidence of practical risk is more difficult than that required for theoretical, academic failure.

In the meantime, within a school of nursing signing-off a student or not signing-off a student is the professional responsibility of one individual. This individual must maintain both personal and professional integrity. In Case A, the head of nursing was quite clear that he was not going to sign the student off regardless of what his fellow nursing academics or educational administrators thought. He then ensured that both the organisation and the NCNZ knew exactly how and why he had reached his decision,

following consultation and advice, all of which was carefully documented. In Case B, the student was withdrawn from the programme prior to any decision having to be made regarding his being signed-off for the NCNZ State examination. However, the head of school had refused to sign-off students in the past and the dean had not only been understanding of this situation, but entirely supportive. Students who have not been signed-off by heads of school have no right of appeal to tertiary organisations, only to the NCNZ. In Case B, this situation was perceived as protecting the education organisation from further dealings with students, and any possible bad public relations. In Case C, the head of school was surprisingly unambiguous regarding signing-off the student for the NCNZ State examination, given the overall context of the failure to fail. However, as with the other two cases, the organisational philosophy carried no weight regarding this professional decision. In the end, the NCNZ upheld the student's appeal against the decision in Case A to not sign her off. Other decisions to not sign-off a student had also been overturned by the NCNZ, as reported by Drake and Stokes (2004). It would appear then, that being fit and proper and of good character is just as contentious and contradictory within the context of the nursing profession as being considered an unsafe student is within the context of education.

Summary

Lyotard (1988) argues that one of the tasks of education is to bear witness to differends in order that differences be articulated, and that different and oppositional views be put into language. As such, the differend affirms a principle of justice whereby all are allowed to speak. In all three case studies presented in this study, contesting discourses have been revealed and conflicts and dissensus exposed. However, not all the conflicts arising from the management of the unsafe student were moral dilemmas, or differends. It is argued that where the moral voice of justice and rights dominated, the voice of care and responsibility was missing, or silenced, and the dilemma disappeared or was made invisible.

The three case studies presented in this thesis describe different educational contexts that produced different administrative and bureaucratic discourses within which nurse education was situated. The educational context dictated the extent to which the nurse educators were able to make decisions, and the degree of support that was available to

them. However, the educational organisations, and the non-nurses within them, did not have the specific, statutory remit to protect the public that the nurse educators had. In most cases, this remit was not understood, or not acknowledged, or considered not to be the business of education. Instead, it was deemed to be a professional nursing responsibility with the consequence that the issue of public safety was made invisible.

In this study, the lack of recognition of the professional nature of nurse education by non-nurse education administrators created tensions in the management of unsafe students, and nursing students in general. The consequence of this situation was that the remit to protect the public lay entirely with nurse educators, as registered nurses, but they did not necessarily have the administrative authority or power to control this. The tertiary education context challenged nurse educators and their caring discourses in much the same way as unsafe students did. In many respects the behaviours were the same, but the dominant educational discourse ensured that the nursing discourses of caring and safety of nurse educators were silenced or marginalised. Nurse educators expressed moral indignation and frustration, directed at the education management systems and processes, and non-nurse administrators. Some nurse educators also experienced moral dilemmas over the management of unsafe students and the possible risk to public safety. This study has shown how various strategies were developed to cope with these.

While nurse educators attempted to make the world safe for themselves by employing, consciously or unconsciously, safety strategies the 'safe ground' (Fitzgerald & van Hooft, 2000) was found to be very small indeed in Cases A and C, and dependent on nurse educators playing commensurate language games in Case B. As such, many participants could be seen to be living 'an existence of calculation', as described by Ball (2003, p.217), constantly worrying that they had dotted the i's and crossed the t's and followed due process. In their attempt to provide safety nets they exposed their lack of trust in the relationships between the educational 'trapeze artists', that is, between those who understood the requirements of nurse educators under the Nurses Act (1977) and those that did not.

I argue in this thesis that individual accountability is not made personal in the same way in the Education Act (1989) as it is in the Nurses Act (1977). Instead, the discourse of

accountability in education takes the form of quality assurance and audit systems, policies and procedures, structures and processes, and rules and regulations. Educators under the Education Act (1989) are not held to account for their performance in the same way as registered nurses are under the Nurses Act (1977). Educators do not have a specific statutory remit to protect the public, and do not fear the loss of any licence to practise. I have demonstrated in this thesis that the way in which unsafe students are managed depends upon which discourse is being used at any given time, by whom and in what context. In this chapter, accountability for public safety in nurse education has been shown to be contextual, historically located and discursively constituted.

CHAPTER TEN

CONCLUSION

Nurse educators, as registered nurses, are presented with a specific dilemma when managing an unsafe student in the tertiary education sector. Registered nurses are, by law, protectors of public safety. They are accountable for their actions and omissions. The educational organisation is also bound by statute and the responsibility to ensure the right of students to education, if it is deemed they will benefit from it. This study found both individual nurse educators and educational structures can fail to fail unsafe students with the consequence that these students continue on nursing programmes presenting a potential risk to public safety. The discourse of justice and rights provides a rationale for this outcome based on principles such as equity, fairness, individual rights and non-discrimination. The care and responsibility discourse, with its emphasis on connection and webs of relationships, results in individuals perceiving a moral dilemma, one which they may or may not be able to resolve, and one for which they may or may not take responsibility. The different moral voices of nurse educators in this study made visible these different discourses and the way in which they produced different caring practices and different subjectivities.

Justice and Care: Do you want to be right or do you want to be kind?

Gilligan argues that when women come to understand the concept of rights this changes their conception of themselves and allows them to consider their own needs as valid. However, self-assertion can only be expressed when the situation is no longer dangerous, the notion of care is then able to expand from not hurting others to an injunction to act responsibly toward self and others (Gilligan, 1982, p.149). In the context in which nurse education takes place, it could be argued that nurse educators' subjectivities are constructed by nursing discourses, particularly the statutory discourse of safety. There is an obligation, as registered nurses, to protect the public and a philosophy, as nurses, to care for others and not to hurt them. Unfortunately, within the tertiary education context, these nursing discourses are trumped by the dominant discourses of education. Using Lyotard's ideas, Fritzman argues the decision-makers'

arrogance and blindness are used to repress the moves of a new language game, one that may destabilise the accepted positions (1995, p.60). Nurse educators become vulnerable in this context and face moral dilemmas not recognised by those who do not share nursing discourses. There is a necessity in this situation to maintain personal integrity. Nurse educators respond to this situation by adopting strategies including holding caring, and in some circumstances responsibility, as hostage to the more important need to survive. Gilligan argues “the existence of two contexts for moral decision makes judgment by definition contextually relative and leads to a new understanding of responsibility and choice” (1982, p.166). In order to achieve this happy ending, nurse educators need to find new ways to make their moral voices heard, or engage in the education language games in order to change the rules of those games.

Taking his postmodern approach, Lyotard considers justice to be an idea, and the discourses of justice to be ‘just games’ in the sense that they are games of the just (Lyotard & Thèbaud, 1985). The language game of justice is distinctive because “transcendence is immanent to the prescriptive game” (Lyotard & Thèbaud, 1985, p.72). As discussed, Hekman extends the idea of language games with her notion of moral language games, which contain within them the claim to rightness without recourse to a meta-narrative. Lyotard argues that the law should be respected with humour but not, I would argue, playfully as interpreted by Rolfe (2000, p.62). This thesis has examined the problems created by the discourses of justice, and the law, in nurse education and these need to be taken seriously. However, Readings makes the point that the just person is produced by the language games of justice and so is made by judgments rather than making judgments (1991, p.126). In this thesis it has been demonstrated that a variety of judgments were produced by a multiplicity of language games played in the making of decisions and reaching judgments. In addition, the moral language games of justice and rights and care and responsibility, and the discourses of education and nursing, were shown to be incommensurable. Lyotard argues that his postmodern approach can be used as a tool to bear witness to differends, not to silence them, and that it can also provide the means for creating new, innovative moves in the language games.

Nurse educators need to play language games, using the method described by Lyotard (1984, p.9). They need to learn different strategies in order to protect the public,

themselves, and students. It has been shown that using the discourse of safety does not work within the tertiary education context. Nurse educators need to play the language games of education, but challenge and change the rules of these games so that safety issues are acknowledged. One way to do this would be to make denotative, performative and prescriptive utterances as moves in the dominant language games. Nurse educators could use language already familiar in educational discourses such as 'risk', 'audit', 'quality', 'standards' and 'accountability' to make phrases, as speech acts, that challenge and fight within the existing language games. Currently the educational discourses do not hear the moral language games of nursing because they do not have to listen, and because they do not have to take responsibility for the consequences. From a strategic point of view, nurse educators need to use the bureaucratic discourse of education. For example, the published missions and visions, and statements of principles and values could be utilised as mechanisms to hold educational organisations accountable to the organisation itself and not just to external agencies. In this way the rights and justice voice, and the quasi judicial-legal language games of educational organisations, could be played to effect for the welfare of staff, students and the wider academic community.

Playing moral language games is a pragmatic and in the context of this thesis, I would argue, a somewhat cynical method of attempting to make moral issues and moral dilemmas visible. Of importance in this activity would be the maintenance of moral integrity and the need to find ways of living with incommensurability. Being right presents as providing some re-assurance for those involved in the management of unsafe students and protecting the public, although it is argued in this thesis that being right is itself a product of particular discourses such as moral language games and, as such, is relative. Being right can, therefore, be shown to be illusory when different discourses are employed.

However, as Gilligan argued, being right and being kind do not necessarily go together. Jake had the right answer, the logical answer to the problem of maths; Amy considered that the answer was 'it depends', and she required more information so that the context and circumstances could be taken into consideration. Hekman and Lyotard argue that there is a choice and that there is a responsibility to decide which discourse to adopt.

Reverby (1987) argues that nursing has a mandate to care in a society that does not value caring. This thesis has shown there is no mandate to care in education per se, only a duty of care and the statutory requirement to protect the public belongs only to nurse educators, in their capacity as registered nurses. I would argue that this situation has the potential to reduce nurse education to the lowest common denominator to what is acceptable, but not to what is admirable. This thesis has also shown that where there is a focus on the moral voice of care, but responsibility for the self is not developed, harm can be done to students and others. In the identification of multiple moral voices and language games this thesis has demonstrated, using the work of Lyotard and Hekman, how relativity can be avoided by the recognition of differences in the exposure of differends and the active choice to play language games and, if necessary, change the rules of those games.

This thesis has looked at three case studies in which the two moral voices of justice and care are both present and heard in one case study, but only one is dominant in each of the other two case studies. The two voices were not united in the first case study and something was found to be missing in each of the other two case studies. I argue in this thesis that the justice and rights voice, the ability to detach, make hard, or cold, decisions, exercise autonomy, and apply the rules and regulations, is deaf to the alternative voice of care. This latter is frequently silenced, or invisible, and easily forgotten or ignored if and when it is articulated. Friedman argues that there is a need to surpass the justice-care dichotomy and that justice does not neglect the reality of relationships, but is “a more noble and multivalent assessment of human relationships” (1993, p.133). She argues the need to go ‘beyond caring’, that is caring as dissociated from a concern with justice, and forge an integration between justice and care. However, I have argued in this thesis that it is not enough, or even possible, to supplement the justice and rights voice with the care voice, treating it as an optional added extra. Alternatively, the notion of integrating what appears to be two different perspectives, or the rejection of the justice perspective, as proposed by some feminist critics including Friedman, does not seem to resolve moral dilemmas or, rather, resolve the contradictions inherent in the dilemmas. Indeed, I would argue, integration and rejection conceal both dilemmas and contradictions. I believe that the two voices of justice and rights, and care and responsibility, are incommensurable discourses that exist and permeate the context in which nurse education takes place. In addition, the

moral dilemmas expressed by nurse educators constitute a differend. As such we can only bear witness and make the differend visible and ensure the different voices are heard.

One of the most frustrating experiences I had in education management was when I discovered that I had repeated almost step by step the experiences of a colleague, a senior manager of another health care profession in the faculty, that had happened only two years earlier. She too had attended, by herself, a disciplinary tribunal set up from her complaint against a student for misconduct, only to be confronted by the student with an army of lawyers, and a committee that seemed unaware of the potential public safety issues presented by the student's behaviour and performance. In these situations following the organisational rules and due process does not necessarily ensure that the arguments are heard, or that justice and fairness are achieved within the rules of that particular discourse. Consummate players, such as lawyers, can sometimes change the rules of the game. In addition, different, or 'wrong' discourses may be being used, such as the subordinate discourse of safety, to present the case. In Chapter Two, the need to identify mistakes and to then use these as a learning opportunity, was highlighted, particularly regarding patient safety. This is not 'washing dirty linen in public', as suggested by a senior nurse education manager at a NETS meeting. Instead it is being honest, and as transparent and open as possible, so that wheels are not reinvented, and people avoid getting hurt. This would create a different style of accountability, and demand more of so-called educational quality assurance systems than mere rhetoric.

Recommendations

Several recommendations are considered in this section for both education and research. Limitations regarding the content and scope of this study are also addressed within the recommendations. There are three recommendations for education and three recommendations for additional research.

The first recommendation for education is that awareness should be raised regarding the dual accountability of qualified healthcare educators within the tertiary education sector, including the implications this has for managing educational processes. As noted in the

literature review, very little has been written regarding the moral dilemmas experienced by nurse educators, and others, in the preparation of students as safe practitioners. This study has contributed to this debate concentrating particularly on nursing students identified as unsafe. However, one of the limitations of using case study methodology is that it is not normally possible to generalise from the findings (Gomm et al., 2000). This study, therefore, relies on making contact with readers own tacit knowledge and experience of the subject matter to form ‘naturalistic generalisations’ (Lincoln & Guba, 1985).

Other issues highlighted in this research have included the difficulty in assessing and evaluating caring practices and performance (Harding & Greig, 1994; Norman et al., 2002), and the organisational procedures and structures used to process student progress (Osinski, 2003; Paterson & Lane, 2000; Scanlan et al., 2001). While there is a substantial body of literature and research addressing the former, such as the objective/subjective debate in clinical evaluation (Diekelmann & McGregor, 2003; Mahara, 1998), the quasi judicial-legal democratic decision-making systems have not been questioned or challenged to the same extent in the nurse education context (see Boley & Whitney, 2003; Orchard, 1994a). This study has begun to address this situation in New Zealand. However, while the organisational context and contextual relativity have been crucial in the analysis of the management of unsafe students the scope and content of this research has been limited to the aims and the specific research question (see Appendix A). The first recommendation for research is, therefore, that additional work be undertaken regarding organisational systems and processes to extend the findings of this study. This would also build upon work already undertaken in the healthcare context (Benner et al., 1996; Hunt, 1997b; Phillips & Benner, 1994) and by feminists within the tertiary education sector (Acker, 1993; Acker & Feuerverger, 1996; Bagilhole, 1993). In addition, the issue of organisational trust within the healthcare system and the tertiary education context (Brien, 1998; Codd, 1999; Curzon-Hobson, 2002; Firth-Cozens, 2004) and the view that performativity has no need of caring relations resulting in ‘inauthentic practice and relationships’ (Ball, 2003) could be explored in greater detail than that afforded here.

The second recommendation for education is that support mechanisms be developed not only for de-briefing staff following emotional, acrimonious, or litigious proceedings,

but also for assisting and advising them during this process. Staff development should include information and guidance on how to access and utilise organisational structures and processes for the protection of everyone. In my experience, over many years and in several tertiary education organisations in the United Kingdom and New Zealand, little staff development has been available for preparing academic staff for examination boards, appeals panels or disciplinary committees. On the whole lecturers are referred to an institution's calendar as the 'bible' on rules, regulations and procedures (or, as found in Case A, the 'statute'). Learning is obtained through trial and error, which is frequently expensive both in resources and human cost, for staff and students. More recently there has been a tendency to seek the advice of lawyers once a senior manager considers the institution may be 'at risk', but not necessarily when it is the staff member who is threatened. The introduction of the Employment Relations Act (2000) in New Zealand has promoted the use of mediation to resolve conflicts between employees. This mechanism has also started to be introduced in education to help resolve issues between students and academics (Warters, 2000). Hopefully this may help to address some of the issues raised by unsafe students before more formal, judicial-legal processes are enacted.

Following on from the above is a third recommendation for education, that the experiences of 'adverse events' could be developed into learning scenarios for further learning opportunities for staff. As noted in Chapter Two, recent developments in healthcare internationally focus on learning from mistakes, and avoiding a 'name, blame and shame' culture (Carlisle et al., 1996; Davis et al., 2001; Firth-Cozens, 2004; Kohn et al., 1999; Page, 2004). This study has demonstrated how people adopted safety strategies, not just to try and ensure public safety, but also to protect themselves from being 'burnt' or 'found wanting'. As the need to ensure inputs and outputs continues, and the stress of satisfying all the varied requirements of performativity increases, there is a need to accept that processes do not always run smoothly and that academic staff require support in developing the skills needed to manage demanding and challenging situations. Educating the educators using past experiences and case study needs to be extended to include organisational and educational failure. This recommendation could be particularly challenging where there is a 'culture of distrust' (Brien, 1998; Codd, 1999; Curzon-Hobson, 2002).

One limitation in this study is that student voices are missing; student experiences of nurse education have only been heard indirectly and nurse educators have constituted unsafe students discursively. How students define and manage their failure, and how they experience the tertiary organisation management processes, have not been explored. This matter is recognised as being an important area for additional study. The moral voices of students, their moral discourses, and language games, need to be listened to or heard and this issue comprises the second recommendation for further research.

A further limitation of this study has been that the clinical nurses who supervise and mentor students, and are involved in assessing and identifying unsafe nursing students, were not included in the research design. Their moral voices, moral discourses and language games are also missing in this study. The third recommendation for research is, therefore, that the moral voices of those working with students in the clinical context, and the types of relationships they have with the student and nurse educators be explored in New Zealand. This research would have important implications for the educational enterprise as well as the management of students in the clinical context (see Duffy, 2004a; Duke, 1996; Watson & Harris, 1999).

Concluding Comments

In this study, it was found that the conflicting and competing rights of individuals and the public found in the Education Act (1989) and the Nurses Act (1977) respectively, formed differends. An examination of these differends demonstrated that in all three case studies the discourses of nursing and education were incommensurable resulting in accountability for public safety being constructed as the business of nursing, but not the business of education. In addition, some nurse educators and education administrators experienced moral dilemmas in the management of unsafe nursing students, while others did not. Those participants who articulated the moral voice of rights and justice were able to apply principles, rationality and reason supplied by this particular modernist paradigm. Those participants who voiced the moral voice of care and responsibility struggled to separate themselves from their relationships with students and were focussed on not hurting others, or being hurt themselves. All participants used

moral language games and, within the rules of these language games, were able to make claims to certainty and to the right answer. In addition, these different moral voices produced different selves and different forms of life, including different ways of caring such as principled caring and caring in relationship.

Caring is considered an important and valued quality in nursing practice, but not entirely necessary. Being caring is, similarly, part of being a person and having an identity and, as argued in this study, different subjectivities and identities are constituted by different discourses such as nursing as caring. Importantly, in making visible different moral voices the different ways in which those who care about accountability for public safety in nurse education have become clear.

In the end, there are two answers to the question “Where does accountability for public safety in nurse education rest?” - the ‘right’ answer and the ‘it depends’ answer. The ‘right’ answer is accountability for public safety in nurse education rests with nurse educators, as registered nurses, as required by law. The ‘it depends’ answer argued in Chapter Nine is that accountability for public safety in nurse education is contextual, historically located and discursively constituted. However, this thesis has also found another ‘it depends’ answer regarding where accountability for public safety in nurse education rests. This answer can at the same time be a question because, in the end, it depends *who cares?*

Appendix A

Research Aims and Methods

Research question:

Where does accountability for public safety in nurse education rest?

	Research Aims	Research Methods
i	Identify ways in which public safety has been debated and challenged in the delivery of nurse education	Literature search
ii	Investigate how challenges to public safety have been managed within the tertiary education sector	Literature search and empirical data collection
iii	Explore the implications and consequences of challenges to public safety for nursing lecturers, students and education providers in relation to accountability	Empirical data collection
iv	Explore factors which constrain or facilitate the management of challenges to public safety in nurse education	Empirical data collection
v	Locate the moral dilemmas created by challenges to public safety within the framework of the ethics of care and the philosophy of education	Philosophical and theoretical analysis
vi	Contribute to the knowledge and understanding of public safety issues in the delivery of professional, vocational nurse education in New Zealand	Completion of thesis and dissemination of thesis findings

Appendix B

Research Questions (Issues)

Questions for each case

1. What were the circumstances around a student becoming perceived as a threat to public safety?

Event or incident - story
Formal academic structures and processes involved
Clinical/ health care provider involvement
Educational/academic performance
Informal processes/communications/actions

2. How was this situation managed and what was the outcome?

Formal/informal processes
People involved/roles/responsibilities
Decision-making processes
Perceptions - effectively/ineffectively; efficiently/inefficiently;
Outcomes and consequences

3. Were there conflicts or tensions for those involved?

Statutory rights/obligations; professional codes
Powerful/powerless players
Personalities/styles/behaviours/emotions
Personal/professional/moral/ethical dilemmas or problems
Litigious student advocate or student

4. What is the understanding regarding accountability for public safety in the organisation?

Contracts; insurance; risk assessment strategy
Statutory rules/regulations; governance statements/responsibilities
Student charter; education provider charter; mission/vision
Personal/professional perspectives

5. What educational policies, or practises, impacted on the delivery and management of nurse education in relation to safe practice?

Funding/resources
Professional autonomy
Growth / Competition (internal/external)

6. What influence did external agencies have on the delivery and management of nurse education (in relation to students and practice) in this organisation?

Health care providers
Professional bodies/unions
Nursing Council of New Zealand

Appendix C

Appendix D

SCHOOL OF EDUCATION
Gil Stokes
c/o Ass Prof Peter Roberts
1-11 Short Street
Telephone 64 9 373 7599
Facsimile 64 9 367-7191
The University of Auckland
Private Bag 92019
Auckland, New Zealand



Participant Information Sheet

Accountability for Public Safety in Nurse Education

My name is Gilian Stokes. I am an experienced nurse educator currently enrolled on a PhD in the School of Education, University of Auckland. I am investigating where accountability for nurse education rests within the tertiary education context. You have been identified as someone who has had significant experience in the management of students, or difficult situations involving students, where there has been a perceived risk to public safety. In this context 'public' refers to patients, clients, students, staff and others involved in the delivery of nurse education.

I am, therefore, writing to formally invite you to participate in this investigation.

Background to the Study

In 2001 the Nurse Educators in the Tertiary Sector (NETS) organisation supported a survey, undertaken by myself and a colleague. The survey looked at the admission, progress and completion of students on nursing degree programmes. Nurse educators reported several issues concerning students who were considered not to be 'fit and proper' and of 'good character' in order to be admitted to the Nursing Council of New Zealand's examination for registration. These concerns included the need to uphold the rights of the students whilst, at the same time, ensuring the protection of the public in their capacity as Registered Nurses. Additional issues were raised regarding the management and administration of failing students on nursing programmes in the tertiary education context.

Aims of the Study

The overall aim of this study is to examine where accountability for public safety in nurse education rests. As you are no doubt aware the majority of nursing students complete their programmes and continue on to register with the Nursing Council of New Zealand (NCNZ) and be competent nurse practitioners. Of those students who struggle or fail to complete, for whatever reason, the tertiary education structures and

processes serve to protect their interests and ensure fairness and justice in their management.

However situations arise in which some students present as a risk to public safety and do not fulfil the NCNZ requirement of 'fit and proper' and being of 'good character' in the opinion of nurse educators, themselves professional nurses, or others. These situations create moral dilemmas for many of those involved.

This research will use a case study approach to investigate the problems and successes in the management and administration of nursing students who are deemed by nurse educators, or others, to constitute a risk to public safety. In this instance the 'public' could be patients, clients, students, staff or the wider community involved in the delivery of nurse education.

Selection of Participants

I am aiming to develop three or four examples of the management of students who pose a risk to public safety. The emphasis will be on the different perspectives of those involved, their different management styles, philosophies of care, approaches to the various dilemmas presented by the situations and examples of good practice.

I am, therefore, seeking participants who have had experience with the management of a student(s), or the process, in which the student(s) have been considered by nurse educators, or others, to not be 'fit and proper or of good character' or constitute a risk to public safety. No students will be involved directly in the study and no details that might identify an individual student will be included (see below).

I am interviewing a selection of Heads of Schools of Nursing and significant, relevant educational personnel with experience of managing students, or situations, as described. This may include programme leaders, lecturers, members of appeals panel and disciplinary hearings, and other senior education managers such as registrars and health and safety officers.

I am also inviting a representative from the Nursing Council of New Zealand, and representatives of professional organisations such as the New Zealand Nurses Organisation, the College of Nurses Aotearoa (NZ) and student unions, to participate.

What is involved in participation

Participation will involve individual interviews lasting approximately 1 – 2 hours. The interviews will be conducted at a place that is private, convenient and agreed upon by both of us. In the interview I will ask you to describe your experience and involvement in managing either one or more students, or the institutional process, in which there is a perceived risk to public safety by a student(s) on an undergraduate nursing programme.

The interviews will be audio taped and later transcribed by myself. These transcripts will remain confidential to myself, and my thesis supervisors. A copy of the transcript of your interview can be provided, if you wish, in order for you to check your

contribution and assure yourself that confidentiality and anonymity have been maintained.

Risks associated with this research

You need to reflect carefully on your involvement in this study if you feel that talking about your experiences will trigger unacceptable stress or discomfort. On the other hand there is often a serendipitous cathartic effect in sharing information. As discussed you need also to consider if you feel that participating in this study will lead to professional compromise or institutional vulnerability. You are aware that you may withdraw yourself, or information you have given, from the study at any time prior to completion of data collection.

I will ensure that there is appropriate support for you should you suffer any adverse effects from participating in the interview. Details of how to access this will be given prior to the interview.

Benefits associated with this research

It is anticipated that this research will result in recommendations for improvement in the management of students who are considered present a risk to public safety in nurse education in the tertiary sector. It is also anticipated that the research will stimulate a wider debate within nursing, and other health care professions, regarding roles and responsibilities in the delivery of health professional education within the tertiary education context. Ultimately it is hope that the study will contribute to a safer environment for the public and protect all those involved in the receipt and delivery of nurse education and nursing care.

Confidentiality and Anonymity

Privacy and confidentiality will be safeguarded at all times and pseudonyms used throughout the study. Due to the subject matter it might be possible for participants to identify their individual contribution in the final study. However information will be presented so that no individuals, organization or group can be identified. In particular details that could identify a student will not be included.

The results of the study will be available as a PhD thesis held at the University of Auckland library. Articles related to the research may be published in relevant professional journals and presented at conferences and seminars. Confidentiality and anonymity will be preserved in all published material and presentations resulting from this thesis.

Your participation in this research is entirely voluntary. You do not have to take part in the study and you can decline this invitation without explanation. You may withdraw from the study at any time during data collection in which case all tape recordings and transcripts will be destroyed. You may also withdraw information you have provided at any time prior to completion of data collection. It is expected that data collection will

be completed by January 2004. The audio-tapes will be stored in a locked cupboard, separate from the transcripts, and destroyed after six years.

If you have any concerns about this study please contact me or my main supervisor. You are also welcome to contact the Chair of the University of Auckland Human Subjects Ethics committee (AUHSEC). I have listed the contact details below.

Thank you

I would like to thank you for taking the time to read this information. If you have any further questions about the study please feel free to contact me.

If you would like to participate in this research please could you sign and return the attached consent form. I will then contact you to discuss your involvement and make further arrangements.

Researcher: Gilian Stokes, 41 Kiwi Road, Devonport, Auckland. Ph. (09) 4466979
email gil.stokes@xtra.co.nz

Main Supervisor: Dr Peter Roberts, Associate Professor, School of Education,
University of Auckland, Private Bag 92019, Auckland Ph. (09) 3737 599 Ext. 87584

**Head of School: Graeme Aitken, School of Education, University of Auckland,
Private Bag 92019, Auckland Ph. (09) 3737 599 Ext. 87552**

Chair of Ethics Committee: The Chair, University of Auckland Human Subjects
Ethics Committee, University of Auckland, Private Bag, 92019, Auckland Ph. (09) 373
7599 Ext. 87830

Approved by the University of Auckland Human Subjects Ethics Committee on 9 April
2003 for a period of 3 years, from 9/04/03 Reference 2003/071

Appendix E

SCHOOL OF EDUCATION
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The University of Auckland
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Auckland, New Zealand



CONSENT FORM

THIS CONSENT FORM WILL BE HELD FOR A PERIOD OF SIX YEARS

Title: Accountability for public safety in nurse education in New Zealand

Researcher: Gilian Stokes

I have been given and have understood an explanation of this research project. I have had an opportunity to ask questions and have them answered.

I understand that I may withdraw myself or any information traceable to me at any time up to **January 2004** without giving a reason.

- I agree to take part in this research.
- I agree that the interview will be audio taped

Signed:

Name:
(please print clearly)

Date:

**APPROVED BY THE UNIVERSITY OF AUCKLAND HUMAN
SUBJECTS ETHICS COMMITTEE**

on 9th April 2003 for a period of 3 years, from 9th April 2003
Reference 2003/071

Appendix F

SCHOOL OF EDUCATION
1-11 Short Street
Telephone 64 9 373 7599
Facsimile 64 9 367-7191
The University of Auckland
Private Bag 92019
Auckland, New Zealand



Date

Dear Potential Participant

Re: Accountability for Public Safety in Nurse Education

I have asked the Head of School of Nursing to send this letter to you on my behalf. My name is Gilian Stokes, and I have been a senior nurse educator in New Zealand, and am now undertaking research in the delivery of nurse education.

I am investigating accountability for public safety in nurse education. In particular I am looking at how nursing students, who may be perceived as presenting a risk to the public, and the situations that are created by this, are managed in the tertiary education sector. This was an issue identified by the Nurse Educators in the Tertiary Sector organisation, of which the Head of School is a member, in 2001.

In order to protect confidentiality and anonymity I have asked that the Head of School contact colleagues within their organisation whom they believe may have a contribution to make to this study. I am not aware of your identity or your position within the organisation. If you are interested in this research and willing to participate please could you contact me directly to discuss this, and not the Head of School. This is to preserve your anonymity. You can reach me on Auckland (09) 4466979. Alternatively you can email me at gil.stokes@xtra.co.nz and suggest a convenient time for me to contact you.

This research is supported by Heads of Schools of Nursing who consider it to be an important area of inquiry in nurse education. I anticipate it will result in recommendations for improved processes in the management of students in nurse education.

I look forward to hearing from you.

Yours sincerely

Gilian Stokes
Principal Investigator

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