

20 October 2016

The Honourable Paul Green MLC  
The Committee  
NSW Parliamentary Inquiry

ABN 76 486 092 631

**Contact**

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**Our reference**

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Dear Mr Green

**NSW Upper House Inquiry into off protocol prescribing of chemotherapy in NSW**

1. We are acting on behalf of Dr Kiran Phadke in respect of an ongoing review of his practice as an oncologist and haematologist.
2. Our client has brought to our attention the following statement which appears in the Legislative Council's media release dated 21 September 2016, that:  
  
*'The inquiry follows confirmed reports that some patients of Dr Kiran Phadke at the Sutherland and St George hospital cancer services also received incorrect treatment.'*
3. This statement is false. It had not been 'confirmed' that any of Dr Phadke's patients have received incorrect treatment. The investigation being conducted by the relevant local health district regarding Dr Phadke's treatment of patients is ongoing. Dr Phadke denies that any of the treatment he provided to his patients was incorrect and reserves his rights in relation to this statement.
4. We understand that the media release follows both a written press release issued by the Minister for Health, Jillian Skinner and her press conference on 2 August 2016. Statements made by Ms Skinner in her press conference were false, misleading and potentially defamatory. The false statements made by Ms Skinner included the following:
  - (a) Dr Phadke had been investigated for underdosing his patients (it has not been claimed by any investigating authority that Dr Phadke underdosed any of his patients);
  - (b) there were 'confirmed' reports of mistreatment of patients (there were no such reports); and
  - (c) all patients and their families who have been adversely affected by Dr Phadke's treatments were informed of the review (this was incorrect in that it has not been established that Dr Phadke's treatment had adversely affected any patient).
5. A number of statements made by Ms Skinner, in the context made, contained imputations which are defamatory and has led to false and defamatory statements and allegations being published by third parties. This has included the statement by Ms Skinner that *'three patients*

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*treated by Dr Phadke had been identified as affected, two of whom had died.* An incorrect imputation has been made that Dr Phadke's treatment caused the death of these patients, which is untrue.

6. Furthermore, the manner in which the press conference was conducted, being tacked onto the end of a press release concerning Dr Grygiel and alleged underdosing of patients, carried with it imputations that Dr Phadke had underdosed patients, (in addition to the directly incorrect statements) which is potentially false, misleading, deceptive and defamatory.
7. We are instructed to seek to have any reference to confirmed reports about Dr Phadke's incorrect treatment of patients and any suggestion that he was involved in underdosing removed from the website.
8. We note that Dr Phadke has been invited to provide a submission for consideration in this inquiry and to attend on 1 November 2016. Given the incomplete LHD investigation and what appears to be an ill informed pre judgment, we have advised Dr Phadke that is inappropriate for him to participate in the inquiry.
9. Dr Phadke has also had it reported to him that the South Sydney Local Health District has required that any employee who wishes to make a submission to the Inquiry have that submission approved by the Chief Executive and then submitted to the Ministry of Health. This clearly amounts to inappropriate censorship and may impact on the value of any findings resulting from the inquiry.
10. Dr Phadke reserves his rights concerning the matters raised.
11. We look forward to your confirmation that the website will be amended as soon as practicable and otherwise acknowledge receipt of this letter.

Yours faithfully  
MORAY & AGNEW

