April 9, 2024

Senator Mobina Jaffer
Chair, Senate Standing Committee on Legal and Constitutional Affairs
Senate of Canada
Ottawa, Ontario
Canada K1A 0A4

Re: Bill S-250: An Act to amend the Criminal Code (sterilization procedures)

Dear Senator Mobina Jaffer:

As advocates for a just and equitable health care system, the Canadian Medical Association (CMA) applauds the introduction of Bill S-250: An Act to amend the Criminal Code (sterilization procedures) (the “Bill”) as a pivotal step towards remedying longstanding injustices. Thank you for inviting us to speak before the Senate Standing Committee on Legal and Constitutional Affairs on March 21st.

The CMA remains steadfast in its commitment to eradicating racism and discrimination from our health care system and fully supports a health system committed to sustainability, accessibility and patient-partnership. Embracing the principles outlined in the CMA Code of Ethics and Professionalism, we believe that Canada will thrive under a medical culture focused on physical and mental well-being. Canadians from every corner of the country deserve health care that embraces equity and diversity in a society that delivers everyone the opportunity for health and well-being.

The Bill addresses one of the imbalances that challenges those rights that stand in between some Canadian residents and the equal treatment they are entitled to. The CMA strongly denounces the abhorrent acts of forced and coerced sterilization – including surgical procedures to permanently prevent conception, any method that alters the fallopian tubes, ovaries, uterus, or any other action taken with the primary intent of stopping conception permanently without the informed consent of a patient. These practices are rooted in racism and systemic discrimination. They have inflicted irreversible harm on predominantly Indigenous women. The practice has perpetuated cycles of inequality and extreme injustice. It is critical that we collectively combat explicit and systemic racism against First Nations, Inuit, and Métis Peoples within our health care institutions and health systems. In alignment with this imperative, the CMA fully endorses the objectives of the Bill.

Notwithstanding our overwhelming support of the objectives of the Bill, we respectfully submit some improvements we feel could be made to the proposed legislation for your further consideration and review.

**Primary Purpose Test:** The current definition of sterilization procedures in the Bill states that to constitute “sterilization procedure”, the procedure must be for the “primary purpose” of either permanently or surgically preventing conception. Any ambiguity surrounding the interpretation of ‘primary purpose’ must be eliminated.

In clarifying this definition, we submit that the following exception should be identified:

**Emergency Lifesaving Procedures:** After careful consideration, we recognize the concerns raised by our colleagues from the Society of Obstetricians and Gynaecologists of Canada regarding the importance of protecting lifesaving emergency measures. The Bill must be worded, with absolute clarity, so that it does not prevent lifesaving procedures or inadvertently capture such procedures.
Treatment Options: The voluntary requests requirement should also be worded in a manner to ensure that it does not inadvertently create a chilling effect on important discussions about medical options. Physicians must be able to have important and open discussions about the full range of options available to patients to ensure that patients have all the information they need to make fully informed decisions about their care. The Bill should be clearly worded to account for and preserve physicians’ ability to initiate discussions in situations where it is appropriate to present the full range of suitable treatment options to their patients.

The CMA echoes other’s calls for supports, training, and resources for health care providers so that they are equipped to have culturally and psychologically safe reproductive health discussions with Indigenous patients and other groups, provide appropriate information and options, and support patients’ decisions.

Together, we can commit to transforming our health care system into one that truly respects and protects the rights and autonomy of every patient. We hope you will stand firm in your support of Bill S-250. Its passage through the legislative process, will ensure that justice and equality prevail in our health care system.

Yours sincerely,

Kathleen Ross, MD, MSc, MCFP
President, Canadian Medical Association

Cc: Senator Denise Batters, Deputy Chair
    Senator Yvonne Boyer, Member
    Senator Claude Carignan, Member
    Senator Bernadette Clement, Member
    Senator Brent Cotter, Member
    Senator Pierre J. Dalphond, Member
    Senator Marty Klyne, Member
    Senator Kim Pate, Member
    Senator Paul J. Prosper, Member
    Senator Paula Simons, Member
    Senator Scott Tannas, Member