

Testimony In Support of HB22-1008

By Ellen Trachman on behalf of the Colorado Women's Bar Association (CWBA)

Madam Chair, members of the committee, thank you for the opportunity to provide testimony in support of HB22-1008. My name is Ellen Trachman. I am representing the Colorado Women's Bar Association. I am a Colorado attorney specialized in fertility law.

With over 1500 members, the Colorado Women's Bar Association (CWBA)'s mission is to promote women in the legal profession and the interests of women and children in Colorado generally. In 2020 the CWBA made support of the Colorado Building Families Act a priority. At that time, this committee heard testimony describing the heartbreaking situations representative of thousands of Coloradans unable to access basic medical care when it comes to fertility diagnosis, preservation, and treatment.

This committee heard Coloradans' stories, recognized the need to do better, and passed the Colorado Building Families Act.

So why are we back today?

Before the final version of the bill passed, the Governor's office asked for language to be included to prevent the state from being responsible for potential defrayal costs. Under the federal healthcare law, the Affordable Care Act, a state can be found financially responsible for "defrayal" -- or the offsetting of costs -- if a new insurance mandate were to cause an increase in premiums.

The phrasing of the last minute addition was not as clear as intended. It stated that Colorado's Department of Insurance would need to ask the Federal Department of Health and Human Services if defrayal would apply to the new law. The Colorado Department of Insurance would then implement the Act only if: "The Division receives confirmation from [HHS] that that coverage specified ... does not constitute an additional benefit that requires defrayal by the state".

Health and Human Services, under the Trump administration, responded that it could not definitively say that defrayal would not apply to the individual and small group markets.

In no case does the ACA require defrayal to apply, nor could it apply, to the large group market. But because the Colorado Building Families Act did not make a

distinction between the different insurance markets, the Colorado Attorney General determined the law was not clear enough to go into effect for any market.

The bill before you simply makes it clear that the large group market is not (and never was) part of the assessment on defrayal and the unclear language should not prevent the law from going into effect, as intended for that market.

This bill is a simple fix of an unintended ambiguity. It effectuates the original intent of the law and will result in much-needed medical care for a large number of Coloradans.

We urge you to vote in support of HB22-1008.