



**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. My name is Ellen Trachman. I am representing the Colorado Women's Bar Association. I am a Colorado attorney specialized in fertility law. I am here to support HB22-1008.

With over 1500 members, the Colorado Women's Bar Association (CWBA) mission is to promote women in the legal profession and the interests of women 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 came to fertility diagnosis, preservation, and treatment.

You heard from Carly Rutledge, who, when diagnosed with cancer as a teenager, was never told by her doctors of a procedure that could have preserved her chance to have biological children. You heard from Tina Nelson, who could not afford multiple rounds of IVF, so opted for three embryos to be transferred at once. The result was triplets born early with medical complications and a million-dollar hospital bill. You also heard from Tyler and Crystal Wilson. Tyler's service in the US military, and enemy fire while deployed in the Middle East, cost the couple the ability to have children without expensive fertility treatment.

In 2020 this committee heard Coloradans' stories and passed the Colorado Building Families Act with unanimous support. 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 defrayal costs. Under 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 premiums.

Unfortunately, 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".

The response from 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 any distinction between the different insurance markets, the Colorado Attorney General determined the law could not 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 that the law should go 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 provide coverage to hundreds of thousands of Coloradans.

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