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To: Members of the Judiciary Committee

January 24, 2022

RE: S. 113 --- Cause of Action --- Medical Monitoring

### **STATEMENT IN OPPOSITION OF S. 113**

The National Association of Mutual Insurance Companies (NAMIC)<sup>1</sup> and its members, thank you for the opportunity to express strong opposition of legislation referenced above and urge no further action.

This legislation represents a drastic departure from current law by creating a new legal right to damages for exposure-only situations in which no injury has occurred.

The civil justice system is premised on actual and verified harm which generally is to be compensated where a party is found to be at fault and legally liable (usually through a negligence standard). Unfortunately, under this bill, the cause-effect relationship is missing.

Vermont law currently (and appropriately) allows adequate recovery for individuals who can prove harm. S. 113 turns current law on its head by allowing recovery based upon intangible or speculative injury. For example, a substance would not need to be a proven threat. Rather, an “expert” could testify that a substance poses a potential threat to human health or the environment. (See Sec. 7201 (10)(A)(vi).) In summary, the monitoring liability trigger under S. 113 seems to be missing the essential link to an exposure sufficient to cause actual injury.

The bill is overly broad with potentially sweeping consequences that could threaten economic prosperity in Vermont. This measure will result in more meritless lawsuits and increases in claim costs which may ultimately impact insurance premiums paid by Vermont consumers and businesses.

For these reasons, NAMIC and its members respectfully ask that you take no further action on this legislation.

Thank you for your consideration. Respectfully Submitted,

Rory Whelan

Regional Vice President, Northeast

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<sup>1</sup> The National Association of Mutual Insurance Companies is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner’s insurance market and 53 percent of the auto market.