

# INSURANCE MARKET REVIEW

2020



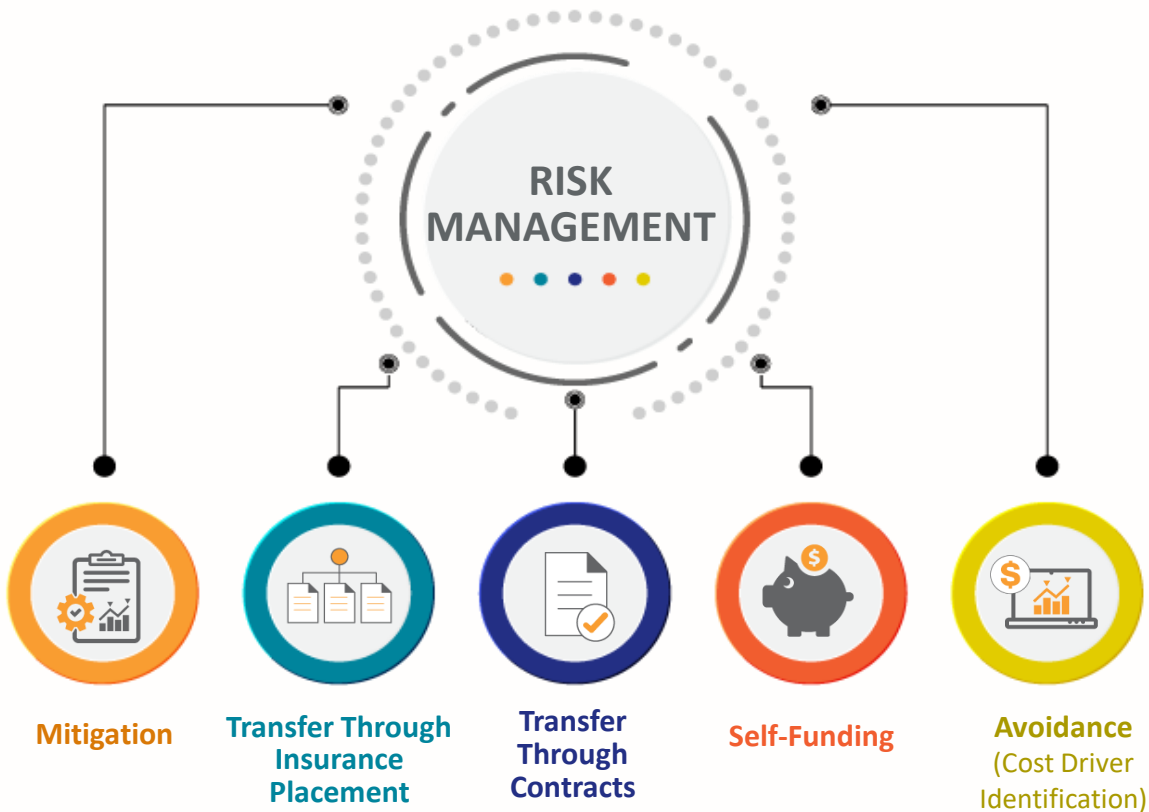
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## EXECUTIVE SUMMARY

- In 2020, insurance markets are not only making up for adverse losses from prior years, but due to COVID and the impending recession, the markets are concerned with disruption to financial position, operational challenges and increased mismanagement allegations.
- Due to this, carriers are re-evaluating their underwriting guidelines, increasing retentions and cutting limit capacity. In layman's terms, in the midst of a pandemic, providers can expect to spend more for their insurance, for less coverage (exclusions/limitations on punitive, sexual abuse and pandemic related claims) and with a higher deductible. Providers should also be prepared for claims to remain open for much longer and the cost of any defense to rise.

The average premium price increase for all-sized accounts and lines of business broke double digits in Q2 2020, at 10.8%, compared to 9.3% in Q1 and 7.5% in Q4 2019.

SOURCE: <https://www.ciab.com/resources/q2-p-c-market-survey-2020/>



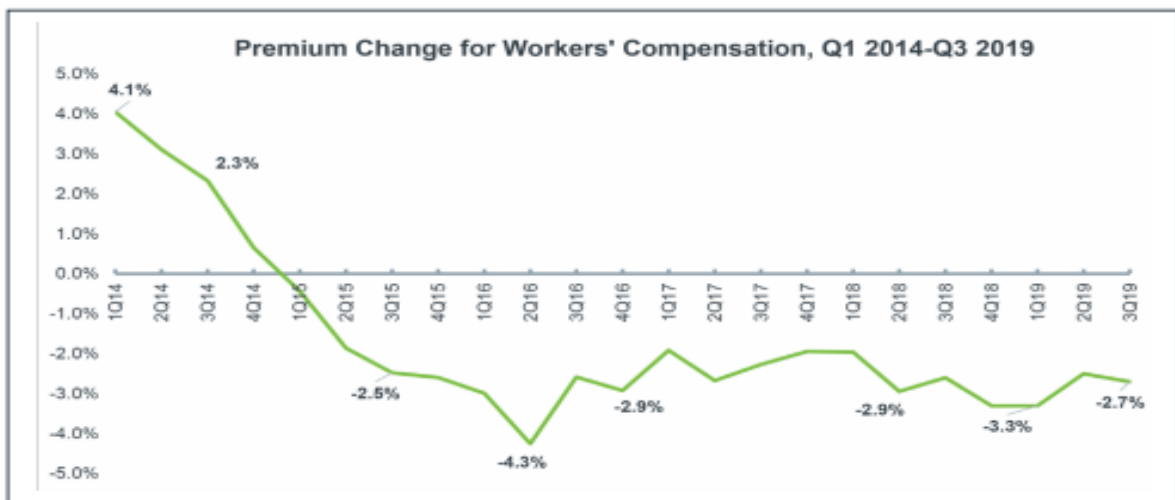


## WORKERS' COMPENSATION



### COVID-19 UPDATE

In most states, COVID-19 claims will not be included in Experience Mod. calculations, but will be included in loss experience.



SOURCE: <https://www.ciab.com/resources/q4-p-c-market-survey-2019/>

In the last few years, most states have experienced a decrease in rate due to reduced frequency of claims, efficient reserving using predictive analytics and less severity. The decreases have often offset increases in other lines, however workers compensation may have reached an inflection point in Q2 2020.

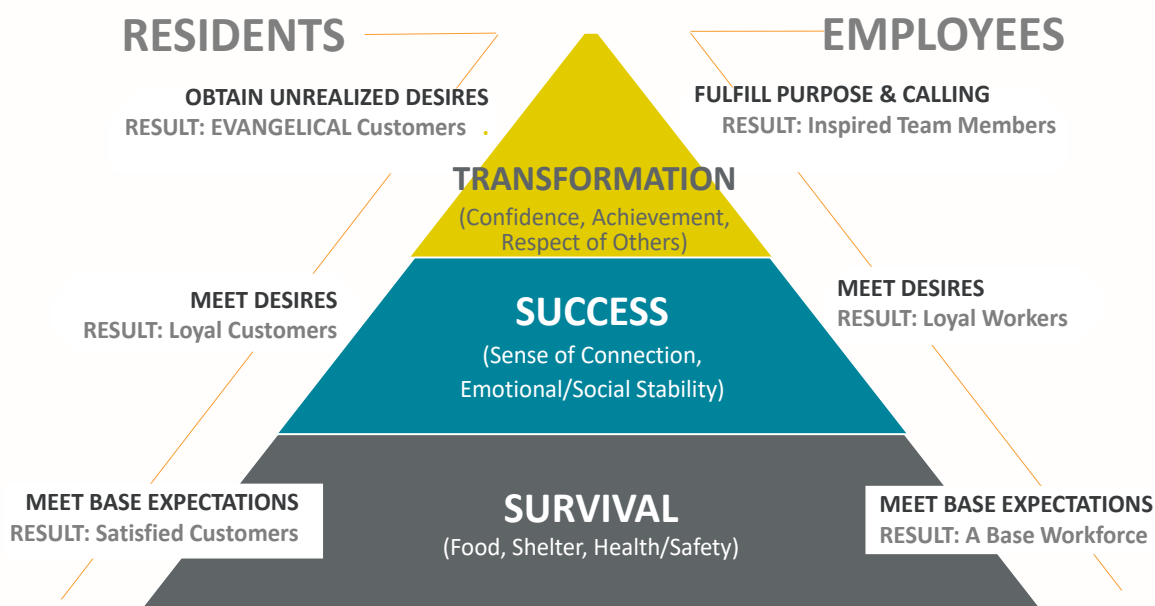
SOURCE: <https://www.ciab.com/resources/q2-p-c-market-survey-2020/>



## WORKERS' COMPENSATION

A successful workers' compensation strategy begins with understanding the specific challenges of the senior living employer and the employees and how a good safety program can help the employer achieve their goals with the residents and employees.

The workers' compensation program should integrate with other benefits and focus on employee satisfaction and engagement reducing turnover and payroll costs.





## WORKERS' COMPENSATION



### Cost Driver Identification

- Indemnity Claims – should be less than 8% of claims
- Safe Patient Handling, Slips/Trips/Falls and Behavior are still number one in frequency



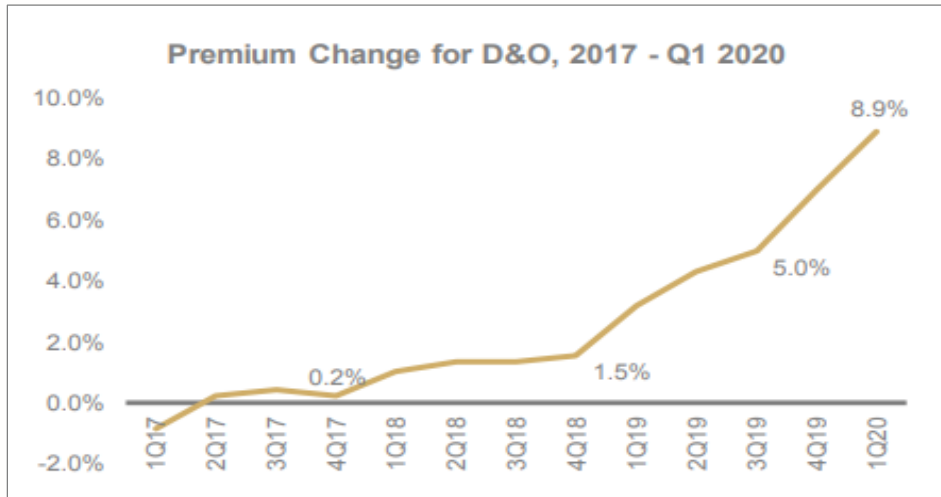
### Risk Mitigation

- Implement telehealth option and coordinate with mental health support (e.g. EAP).
- Use advocacy-based workers' compensation adjusting which focuses on employee production and satisfaction and integrates with other benefits.
- Insure program considers equipment inventory/procurement.
- Implement workers' compensation medical cost management strategies including: identifying preferred providers, limiting in office dispensing of medication, focusing on population health and other analytics to drive more efficient outcomes.
- Continuous improvement on the top drivers: safe resident handling, slip, trip and falls and resident behavior.
- Safety committee analyze root cause of employee injuries and coordinate with QA/QAPI.



## DIRECTORS AND OFFICERS (D&O)/EMPLOYMENT PRACTICES LIABILITY (EPL), FIDUCIARY LIABILITY AND CRIME

Directors and Officers insurance, particularly in healthcare, is trending with an average increase rate of 10-25% in order to support market correction stemming from continuous poor carrier profitability results.



SOURCE: <https://www.ciab.com/resources/q1-2020-p-c-market-survey/>



### EMERGING D&O RISKS

- Medicare/Medicaid fraud with amplified Department of Justice (DOJ) scrutiny.
- Cybersecurity related incidents.
- Disruption to financial position, operational challenges and increased mismanagement allegations due to COVID impact.



### RESULTING IN

- Carriers re-evaluating their underwriting guidelines, increasing retentions and cutting limit capacity.



### COVID-19 UPDATE

Carriers are scrutinizing infection control policies and focusing on financial impact employers are having with COVID-19.



## DIRECTORS AND OFFICERS (D&O)/EMPLOYMENT PRACTICES LIABILITY (EPL), FIDUCIARY LIABILITY AND CRIME



### Employment Practices Liability Cost Drivers:

- Statutory progressions and public sentiments involving #METOO laws and the FAIR Act.
- An increase in class actions suits are driving the greater severity.
- COVID-19 exposures, discrimination and retaliation allegations and whistleblowers are expected to be intensified. Moreover, the cost of defense is up and claims remain open longer.



### Risk Mitigation

- Review contractual risk transfers. These may include, but not limited to, review of temp. agency contracts, independent contractor agreements, and maintenance service vendors.
- Review of Corporate Compliance Program.



## GENERAL (GL) AND PROFESSIONAL (PL) LIABILITY

**Primary Casualty Rates: Professional and General Liability: + 15% - 100%**

**General Liability and Professional Liability Excess: + 40% - 300%**

Coverage Issues: Communicable Disease & Class Action Exclusions, Punitive Damages Restrictions and Sub limits for Sexual Abuse and Molestations

Market Issues: Limited capacity and carriers exiting the market

### ACCOUNT MARKETABILITY

Carriers have intensely focused on **survey results**. A lower **CMS five-star quality rating** or the **abuse stop sign** will significantly impact ability to market account.



### COVID-19 UPDATE

Many carriers are putting a moratorium on writing new accounts and when they do, keen focus on infection control procedures, previous citations around infection control and COVID-19 breakouts.

**Immunity given to long term care providers in many states in relation to COVID-19 was particularly important. Providers, long-term care associations and lobbyists should push for immunity to be instated immediately once a pandemic has been declared.**



### Severe claims are a function of:

Increase in medical cost, social inflation inclusive of the #METOO movement, stirring excess jury awards. Additionally, social movements and media attention creating a focus on legislatures passing reviver statutes.



### Factors influencing the increase in frequency include:

Incidents of breach of contract, negligent hiring, and failure to supervise.

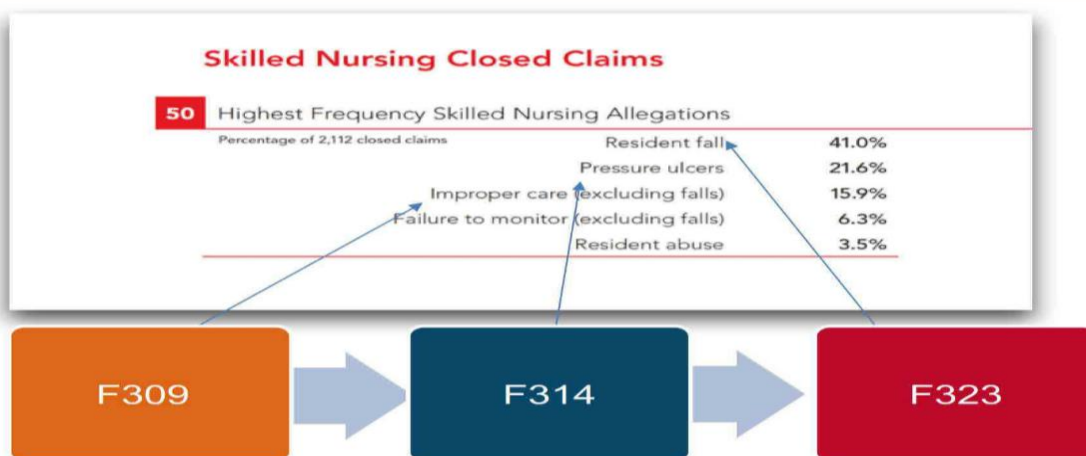




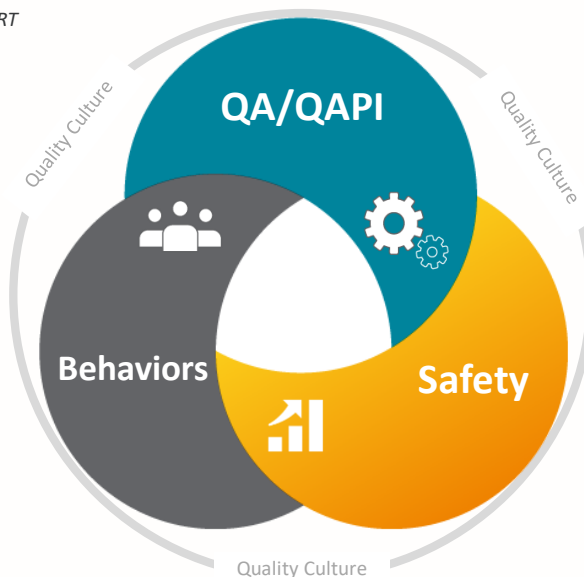
## GENERAL (GL) AND PROFESSIONAL (PL) LIABILITY

A good risk management program supports and strengthens quality culture and targets cost drivers.

Three major claim categories linked three frequently cited CMS F-Tags



SOURCE: CNA 2018 CLAIM REPORT





## GENERAL (GL) AND PROFESSIONAL (PL) LIABILITY



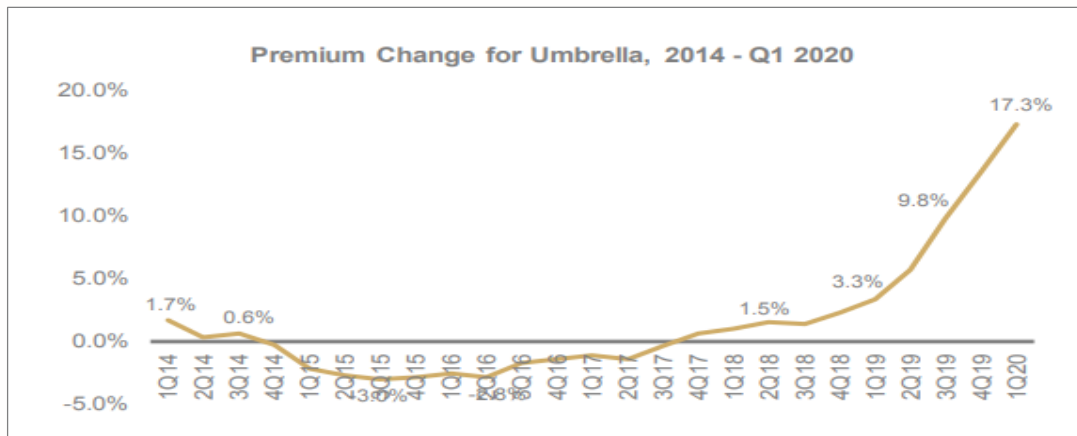
### Risk Mitigation

- Effectively use quality assurance committee and coordination with corporate compliance.
- Review admission and service contracts.
- Convert grievance policy to customer service program
- Employ litigation management strategies that include:
  - Arbitration agreements,
  - Risk agreements.,
  - Record retention/litigation hold/record release,
  - Documentation training,
  - Regularly scheduled abuse training,
  - Effective and efficient documentation.
    - ▶ *COVID-19 highlight: Given the novelty of the virus and ever changing best practices-be sure to document what changes were made to your policies and procedures as well as when the changes were made. This allows you to defend what you did as more information was released.*
  - Survey results matter in risk management and complaint surveys have the biggest impact. Review your grievance policy and incorporate customer service training for employees.
  - Employees, past and current can not only impact your brand, but influence litigation. So having a good culture and addressing employee well-being is essential.
  - Spend time, money, and resources to educate and train your employees (not just at orientation), as training will come up in a plaintiff attorney's argument and may potentially become a liability for the defense.



## UMBRELLA LIABILITY

In terms of premium pricing, Umbrella liability was the most troubled line of business in Q2 2020, with an average premium increase of 20 -300%, the first time an increase of 20% or higher has been recorded for any of the commercial lines since 9/11. As professional liability claims take longer to develop, the poor loss experience is now driving carriers to evaluate pricing and policy terms or exit the market altogether.



SOURCE: <https://www.ciab.com/resources/q1-2020-p-c-market-survey/>

Previously, umbrella pricing was a function of underlying liability pricing and would be expected to increase or decrease depending on the underlying pricing. Due to renewed reinsurance contracts, carriers are reducing their capacity and increasing pricing per \$1 million. Social inflation and nuclear verdicts are key drivers.

SOURCE: <https://www.ciab.com/resources/q2-p-c-market-survey/>

### SIGNIFICANT MARKET CHANGE

Most carriers are placing very low sublimit or excluding abuse and molestation and/or punitive damages.



### COVID-19 UPDATE

Limited capacity is requiring different limit structure. Increased premiums in underlying carrier pricing will result in increased umbrella/excess pricing.



## UMBRELLA LIABILITY



### Risk Mitigation

- Enterprise Risk Management and risk tolerance discussion with leadership and the board.



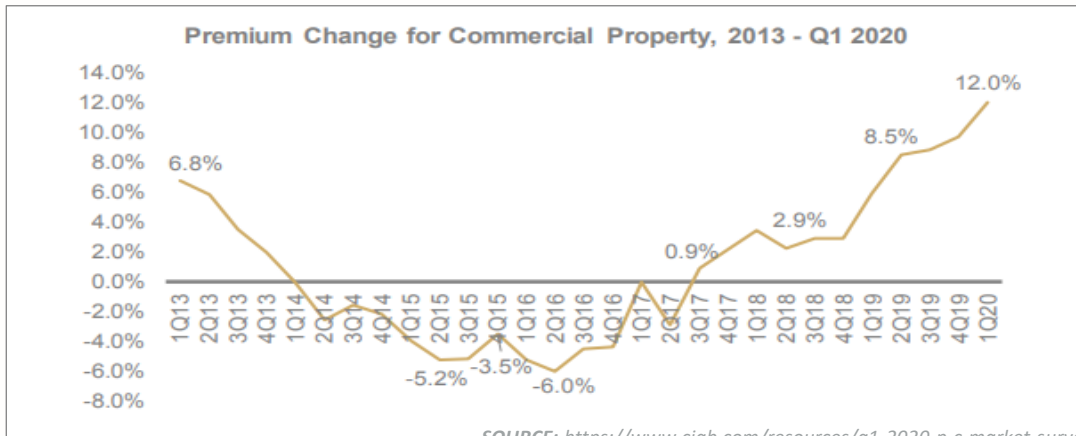
### Risk Transfer

- Review limit structure. Consider layering limits.
- Captive considerations on underlying.
- Largest impact to rate is due to reinsurance costs for sexual abuse and/or molestation.



## PROPERTY

2017 and 2018 set a record in natural catastrophic losses with severe consecutive storms and flooding in the Midwest being primary loss drivers. Leading causes of loss includes water damage claims, wind/hail damage to roofs due to storms and fire. Average premium increases are 10 – 40%



SOURCE: <https://www.ciab.com/resources/q1-2020-p-c-market-survey/>

The 2017 and 2018 losses that impacted investors of capital was nearing final settlement stages. Where 2019 capital was viewed as stable. With the property segment being well-capitalized, this lead us to believe that the 2019 hard market was being driven by bad underwriting results.



### COVID-19 UPDATE

- Markets are making up for adverse losses
- Impending recession, they need to cover loss in investment income & decrease in exposure
- Litigation in business income/extra expense incidents



### WHAT TO LOOK FOR:

Underwriting analysis is critical, where reinsurers are being more restrictive in capacity and coverage terms. Even on loss-free accounts, **habitational portfolio's with frame and/or non-sprinklered properties are limited in standard markets**, forcing insureds into the surplus lines market. Carriers will be looking for additional underwriting information to verify proper limits (i.e. business income worksheets, appraisals, etc.) and requesting details on capital improvement plans. Moreover, reinsurance contracts are requiring higher deductibles.



## PROPERTY

### Risk Mitigation

- Water management risk plan
- Capital improvement plans
- Review loss prevention strategies such as regular inspection & maintenance (i.e. testing critical equipment such as HVAC, fire protection systems), fire drills, regular housekeeping practices.
- Business continuity planning.

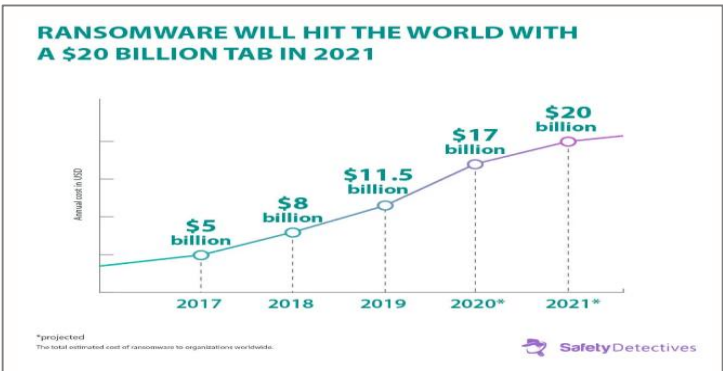


# CYBER LIABILITY

Historically, the cyber liability market has been easy-going given capacity and competitive based pricing. For the first time in years, we may be seeing a shift given 2019 losses nearing \$2 trillion.

## CYBER CLAIM TRENDS

**Hackers pursue mid-size companies** that are less technology adept

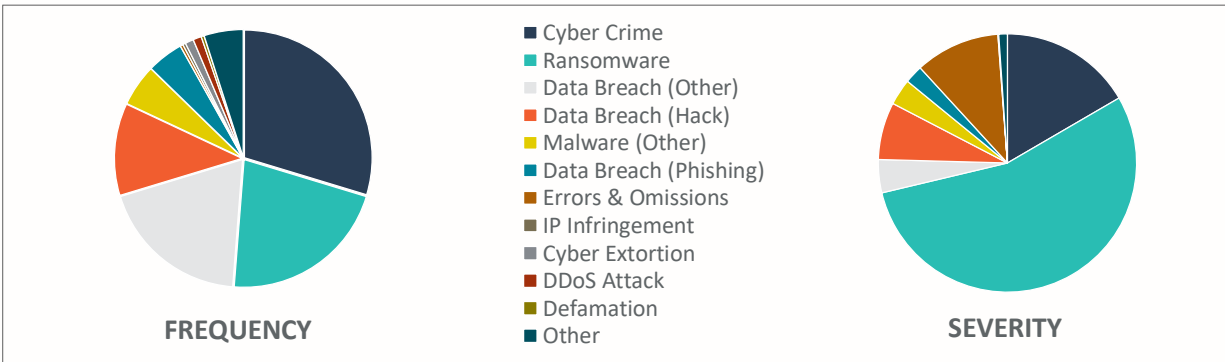


SOURCE: CFC 2018 Cyber Insurance Claims Review

### Common Breach Causes

- Data lost or stolen
- Employee mistake
- Hacking
- Confidential info Disposal (not purging appropriately)

## Cyber Claim Statistics <sup>(10)</sup>



SOURCE: CFC 2018 Cyber Insurance Claims Review

Most carriers are strengthening their underwriting guidelines to verify proper safeguards in place with encryption , multi-factor authentication and air gaps for back ups.

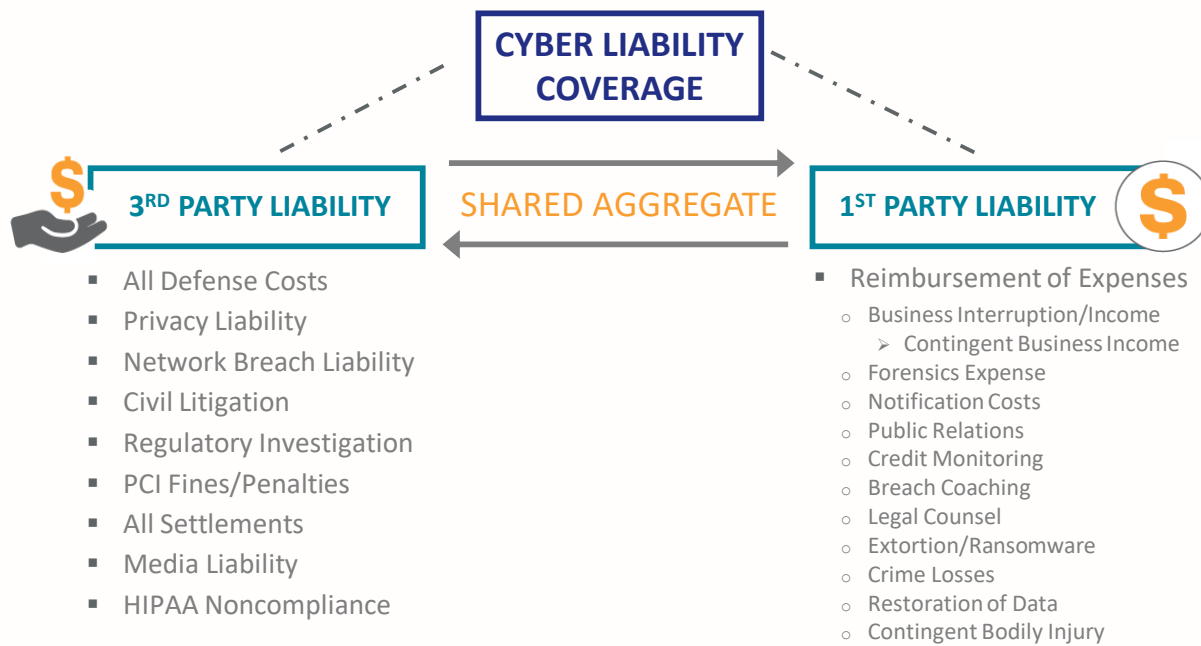


### COVID-19 UPDATE

Ransomware took a spike with the increase in employees working from home.



## CYBER LIABILITY



### Risk Mitigation

- Hardware and software solutions (encryption, ability to wipe mobile remotely, multi factor authentication).
- Diagnostic risk assessments (penetration testing, ransomware stress test).
- Employee training and education.
- Incident/breach response plan.





## POLLUTION LIABILITY



### COVID-19 UPDATE

Pollution carriers are evaluating their position in relation COVID-19, specific to coverage for virus, bacteria and communicable diseases.

With prior outbreaks such as SARS, Bird Flu & Ebola, standard property and liability carriers have pollution exclusions in place, inclusive of virus and bacteria. Healthcare is most at risk where there are larger amounts of people in close proximity. Pollution policies can be a risk transfer solution for:

- bodily injury,
- property damage,
- business interruption,
- clean up/disinfection costs,
- defense for pollution related incidents.

### Factors influencing the increase in claims activity include:



- Legionella outbreaks, Indoor air quality,
- Mold,
- Bodily fluids or infectious viruses,
- Leaks in diesel storage tanks for (where required) backup generators.



### RESULTING IN

- Carriers are more cautious on risk selection.
- Lock in multiyear programs when available to mitigate uncertainty.



### Risk Mitigation

Water Management Plan  
Asbestos Plan