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COMMERCIAL INSURANCE

EMPLOYEE BENEFITS

PERSONAL INSURANCE

RISK MANAGEMENT

SURETY

HEALTHCARE

Markets in Focus

Insurance Pricing & Market Update

Q1 2023

INTRODUCTION

Just when the healthcare industry and its frontline caregivers were recovering from more than two years of managing enormous COVID-19 patient loads, the "triple threat" of COVID-19, influenza and RSV arrived with a vengeance in early fall. Children under five, and especially those less than six months old, were affected the most. Fall and winter surges of respiratory illnesses are not uncommon, especially for this age group, but cases were critically high this year since mask-wearing and social distancing during the pandemic reduced natural immunity levels. It seems as if the healthcare community is treating three years' worth of pediatric respiratory illnesses in a single season.

THE TRIPLE THREAT

Pediatric hospital beds were at a premium and hospitals were scrambling to transform wards and establish triage tents. The triple threat was the primary reason for this bed shortage. Additionally, hospitals and medical centers have steadily reduced and even closed pediatric wards in recent years, converting the space to COVID-19 care and more profitable health services like orthopedics, cancer treatment and others.[1]

STAFFING SHORTAGES

The healthcare industry is also confronting a significant staffing shortage, a phenomenon also closely linked to the pandemic. Since 2020, caregivers have managed high caseloads, worked long hours and been exposed to significant personal risk. An estimated 230,000 providers, including doctors, nurses and physician assistants have resigned – twice the normal rate.[2] Due to an aging workforce, lack of instructors and job burnout, the U.S. will need to fill nearly 200,000 nursing jobs in the next decade.[3]

An estimated 230,000 providers have resigned
TWICE THE NORMAL RATE

Travel nurses can alleviate staffing shortages in specific areas, but this model is not a solution overall, since it doesn't increase the total number of nurses in the industry. It's also an expensive proposition. Total employed and contracted labor costs for hospitals were expected to be at least $86 billion higher in 2022 than in the previous year, with contract labor expenses five times higher than pre-pandemic levels.[4] We will likely continue to see more and more employed nurses striking and unions negotiating higher pay for those employed nurses to match and come closer to travel nurse pay.

CYBER RISK

The healthcare industry remains uniquely vulnerable to ransomware attacks, accounting for 20% of these incidents in the second quarter of 2022. Ransomware attacks increased by 70% from 2020 to 2021.[5]

Ransomware attacks increased by
70% FROM 2020 TO 2021

Cyber insurance for this sector is available within an increasingly hardened marketplace with tighter terms and exclusions, lower coverage limits and an expectation of higher retention levels. The impact of these conditions, along with increasing premiums overall, will be less for hospitals and patient care systems that adopt and document state-of-the-art cybersecurity safety programs that include widespread multi-factor authentication (MFA) for access to the network, endpoint detection and response (EDR), frequent backups with offline storage, enhanced employee training and more.

2H OUTLOOK

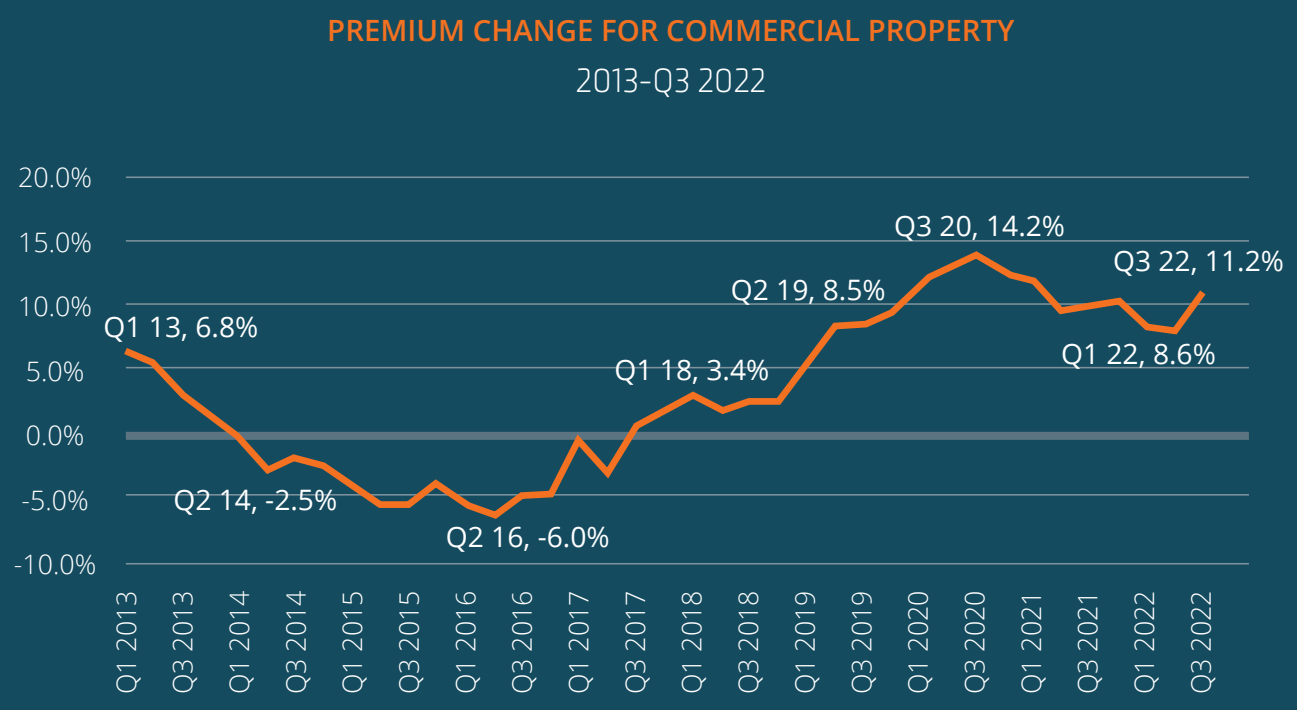
PROPERTY

+ Rounding the corner of 2022, into 2023, the property market outlook is a little grayer. While we progressed through 2022 with slight decreases in rates, depending on the operations and geographic location, Hurricane Ian sent shock waves through the market.

+ Due to the unexpected turmoil of the property market, especially in areas affected by CAT, these performance issues have been further worsened by underperformance, lack of trust in modelling and inflationary pressures especially in the last half of the year.[6]

+ Prior to Hurricane Ian, the U.S. wind CAT treaty market was already experiencing an imbalance between supply and demand, with demand increasing and reinsurers seeking to reduce their exposure.[6] It is anticipated that capacity for CAT-exposed insurance portfolios will decrease in the upcoming year, making certain Florida exposures potentially unaffordable.[6]

+ The high valuations required by underwriters to write or renew property coverage have been driven up by the large influence of inflation on construction costs.[7]



Source: CIAB

GENERAL PRICING ESTIMATES

Non-CAT exposed property with favorable loss history	10% to 15% increases
CAT exposed property with favorable loss history	15% to 25% increases
Property with unfavorable loss history and/or a lack of demonstrated commitment to risk improvement (unresolved recs, pattern of same issues, etc.)	10%+ increases for non-CAT 30% to 50%+ increases for CAT exposed accounts and higher depending on frequency/severity of losses and when there are limited markets for a risk due to occupancy/class of business or concerns related to loss control

CASUALTY

+ The Casualty market is in a healthy state, with primary General Liability rates remaining steady for risks with a good loss history. Insurers are seeking more information on past losses and any modifications that have been made to prevent similar losses in the future.

+ Carriers are monitoring the levels of losses occurring across the nation, as court proceedings return to their pre-pandemic pace. In anticipation of large settlements and judgments from juries that may be more sympathetic than usual due to the effects of social inflation, carriers are bracing themselves.[8]

The Casualty market is in a HEALTHY STATE

EXCESS LIABILITY

Excess Medical Professional Liability is generally combined with General Liability.

+ In order to mitigate potential risks, carriers are now offering coverage limits that range from $5M to $15M, which is significantly lower than the traditional $25M. Therefore, it is now essential to stack multiple tiers of insurance carriers in order to reach the desired coverage limits.

MEDICAL PROFESSIONAL LIABILITY

+ It is an important way to protect healthcare providers from potential lawsuits in the event of negligence.[5] Medical Professional liability coverage pricing has been rising for several years, and prices have started to reach new heights.[9] Several carriers took low double-digit price increases in states that were key to their business.

+ In 2022, rates in states without patient compensation funds increased by 3%, compared to states with PCFs rates increased by 3.5%.

+ In a recent AM Best report, they predict a negative market segment outlook on the Medical Professional liability (MPL) sector, citing the following key reasons:
  - Ongoing pressures of depressed demand
  - Rate adequacy concerns
  - Rising loss cost trends and social inflation diminished reserve redundancies
  - The potential for additional claims owing to the pandemic[10]

WORKERS' COMPENSATION

+ Workers' Compensation remains one of the most lucrative coverage lines for carriers, and purchasers can expect fair pricing if there is sufficient capacity. Modification Factors and loss history will significantly influence pricing, but competition between carriers for accounts with good to sufficient loss history will help to keep prices reasonable.

EXECUTIVE RISK

PRIVATE D&O

+ The private healthcare D&O market are relatively flat, dependent on account specific and jurisdictional challenges.

+ Markets are beginning to soften, there has been a pullback within the D&O appetite for carriers. Uncertainty with COVID and financial struggles are still creating some pressure within the D&O markets.

+ Incumbent markets are pushing higher retentions and somewhere in the range of +5% rate increases.
  - As carriers re-enter the market space and expand their appetites, new capacity has helped drive the softening markets.
  - Incumbents who remained in the space are pushing rate increases, changes are nothing too drastic.

+ As of January 1, 2023, carrier competition in the space will slow down rate increases, especially for Q2 of 2023.

+ For upcoming renewals, insureds should validate their rate increases by approaching other markets, as we see a transactional push from incumbents re-entering the space, i.e. how broad is their coverage, do they have a true healthcare D&O form? If not, pay close attention to which endorsements were added, along with tailored coverages and definitions.

Carrier competition will SLOW DOWN RATE INCREASES FOR Q2

EPLI

+ Jurisdictional challenges will be the most pressured in California and Florida to an extent.
  - Senior living facilities and physician groups will experience rate increases, especially within the Employment Practice Liability due to the size of verdicts and loss payouts.
  - California's EPLI retentions are higher due to their frequency and severity of claims.

+ Legal costs are high for wrongful termination, harassment, and discrimination. But, settlements are fairly low amounts, and the legal battles are generally biased, so payout settlements are the easier route for companies and insurance carriers.

E&O

- Markets are anticipating rates in the managed care spaces to stabilize from previous years. Rates will hover around the 10% mark, for the most part, with pockets of 5% increases for smaller risks and certain classes of business in the Managed Care space.
- For larger regional, national and public managed care accounts, carriers will continue to take double-digit increases (10% or more).
- The systematic risk within the managed care space will continue to be a concern, not only for primary carriers but also for the reinsurers that back these portfolios.

The other class of business to keep an eye on is mental health and behavioral health – with the increase in managed behavioral health, there has also been an uptick in claims activity. Usually, they are denial of benefits but can also stem from health parity – this is an area that has class action potential.

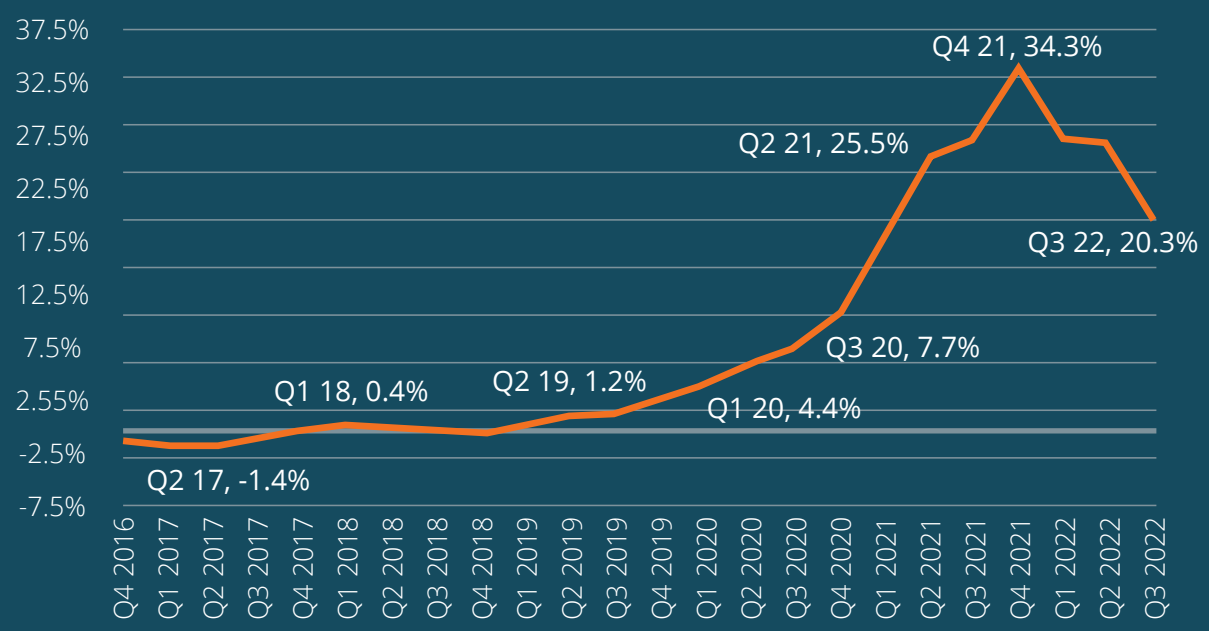
CYBER

The Cyber insurance market is currently moving out of a hard market. Carriers are reallocating their portfolios in response to recent claims from 2020 and 2021, which has led to increased rates and a demand for technical controls. While ransomware claims are decreasing, the severity of other risks are still present, making this a volatile class of insurance. Despite the volatility, Cyber insurance is now considered a critical component of any organization's risk management plan.

+ Pricing increases are decelerating
+ Increased Carrier competition over accounts
+ Carriers are focusing on “must have” controls and are increasingly reliant on external scanning technologies in risk assessment
+ **Specific areas of focus:**
  - Multi-Factor Authentication (MFA)
  - Remote Access
  - Privileged users
+ Enterprise implementation of Endpoint Detection & Response (EDR) solution

+ **Data backup procedures:**
  - Detection from the network or cloud-based
  - Encrypted
  - Restricted Access
  - Tested
  - Multiple Copies
+ Software patch management to ensure critical security patches are made within 30 days.
+ Insureds that do not have satisfactory control in place may see non-renewals or reduction in coverage. This reduction comes in the form of sub-limits or co-insurance provisions.
+ Carriers looking to reduce exposure to business interruption by reducing limits and increasing waiting periods – particularly true on contingent business interruption.

PREMIUM CHANGE FOR CYBER, Q4 2016 - Q3 2022



Source: CIAB

MAJOR CLAIMS IN THE SECTOR

MEDICAL PROFESSIONAL LIABILITY

+ The Plaintiff was initially diagnosed with the flu by a Physician Assistant at an urgent care facility, but after a few days, he went to the emergency room and was diagnosed with bacterial meningitis.[11] This condition caused the plaintiff to suffer brain damage, and the jury awarded the plaintiff **$27M in damages**.[11]

+ After passing out, the Plaintiff was swiftly hospitalized and found to have an exceptionally low sodium level.[11] Her legal team argued that her physicians had failed to adequately treat her sodium deficiency, resulting in further sodium spikes.[11] Following a seven-day stay, the Plaintiff was diagnosed with encephalitis, eventually requiring extended hospitalization.[11] Ultimately, the jury awarded her a total of **$68 million in damages**, including $50M for pain and suffering.[11]

+ A lawsuit was filed on behalf of 119 residents of veterans' homes against New Jersey Veterans Memorial Home Paramus (Defendant) in relation to the deaths of more than 100 veterans at state-run homes during the coronavirus pandemic. The lawsuit accused the Defendant of negligence by failing to keep the premises in a safe condition for the veterans, and overall negligence. In December 2021, Defendant will pay **a settlement of $53M** to be contributed to the families of the veterans in Paramus and Menlo Park.

ONETOUCHPOINT: 4.11 MILLION PATIENTS

In one of the most expansive data breaches reported this year, more than 30 health plans and a total of 4.11M individuals were affected by a ransomware attack on printing and mailing vendor OneTouchPoint that was first discovered on April 28. With over 326,278 impacted patients, Aetna ACE was among the hardest hit by the third-party incident. The OTP notice disclosed that a threat actor accessed several servers one day before deploying the ransomware payload. The vendor was unable to determine just what files were accessed during the dwell time and instead reported based on the data contained within the servers, like patient names, member IDs, and information gathered from health assessments.[12]

GUIDANCE

BEGIN THE RENEWAL PROCESS EARLY

The **General Liability, Cyber, Excess/Umbrella** and **Property** markets are constrained and more challenging to navigate in the disciplined market. With an outcome of increasing prices across all lines of business and in every industry sector.

PARTNER WITH INDUSTRY EXPERTS

It is important to work with your broker's industry experts who truly understand the business and the market for placing each specific risk. Collaborating with a team who can best represent your risk, and understand your operations, is more important than ever during this disciplined market we are experiencing.

HIGHLIGHT CYBER SECURITY & PROACTIVE RISK MANAGEMENT

The frequency and severity of cyber claims have leveled off as of recently, nevertheless cyber coverage will continue to see underwriter scrutiny of companies' cybersecurity hygiene. Healthcare has experienced cyber security challenges for the past two years but clients who have followed protocols and guidance have found better success. **The importance of highlighting any additions in cybersecurity staffing or updated systems protocol cannot be overstated.**

ENGAGE LOSS CONTROL AND CLAIMS TEAMS

Frequent communication with your broker's loss control and claims teams is a top priority, especially when a claim arises. Engaging your loss control team before a claim occurs, can proactively prevent claims from occurring and is considered the best strategy for insureds. But, in the event of a claim, claims experts can help reduce the impacts to your business financially and operationally. We work with you to understand your financial goals and operational challenges so we can identify, develop and deliver Risk Control Solutions that strategically mesh with your objectives.

1 https://www.modernhealthcare.com/finance/pediatric-beds-hospital-finance-rsv-mark-wietecha.
2 Ibid.
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4 https://www.aha.org/press-releases/2022-09-15-new-report-shows-2022-will-be-most-financially-difficult-hospitals-and.
5 https://www.nbcnews.com/tech/security/ransomware-attacks-hospitals-take-toll-patients-rcna54090.
6 Target Markets: Four questions for the MGA market that need answering (insidepandc.com)
7 https://www.ciab.com/download/35895/?tmstv=1668540348
8 sotm_q2q3_2022_f.pdf (amwins.com)
9 Nearly 30% of medical liability insurance premiums rose in 2021 | American Medical Association (ama-assn.org)
10 Medical Professional Liability Market Facing Difficult Times (insurancejournal.com)
11 Nuclear Verdicts | Tyson & Mendes (tysonmendes.com)
12 https://www.scmagazine.com/feature/breach/most-of-the-10-largest-healthcare-data-breaches-in-2022-are-tied-to-vendors

MORE THAN JUST INSURANCE

Based in North America, Parker, Smith & Feek is an integrated financial services company focused on protecting the assets of its widely varied client base through insurance, risk management and wealth management solutions. As an employee-owned company, Our 1,800-plus associates are empowered to provide customized solutions for their clients' unique needs.

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