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CYBERSECURITY & INSURANCE COVERAGE IN THE AGE OF TELEHEALTH: *UNDERSTANDING & MITIGATING YOUR RISK*

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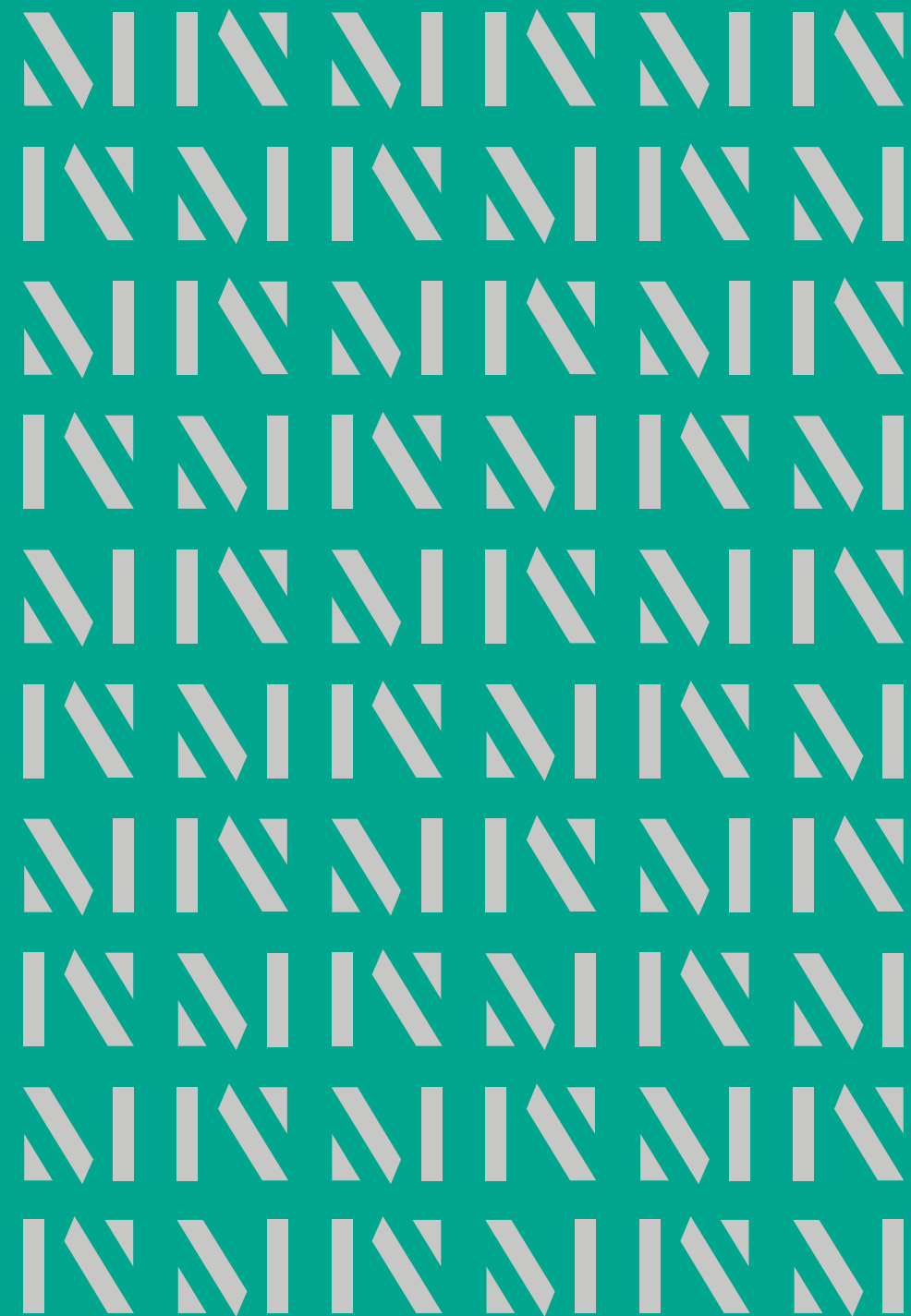
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AGENDA

- Bodily Injury Related Claims
- Cybersecurity Risks and Trends
- Cybersecurity Insurance Market Updates
- Q&A

MALPRACTICE + DIGITAL HEALTH LIABILITY



TELEMEDICINE SIGNATURE COVERAGES

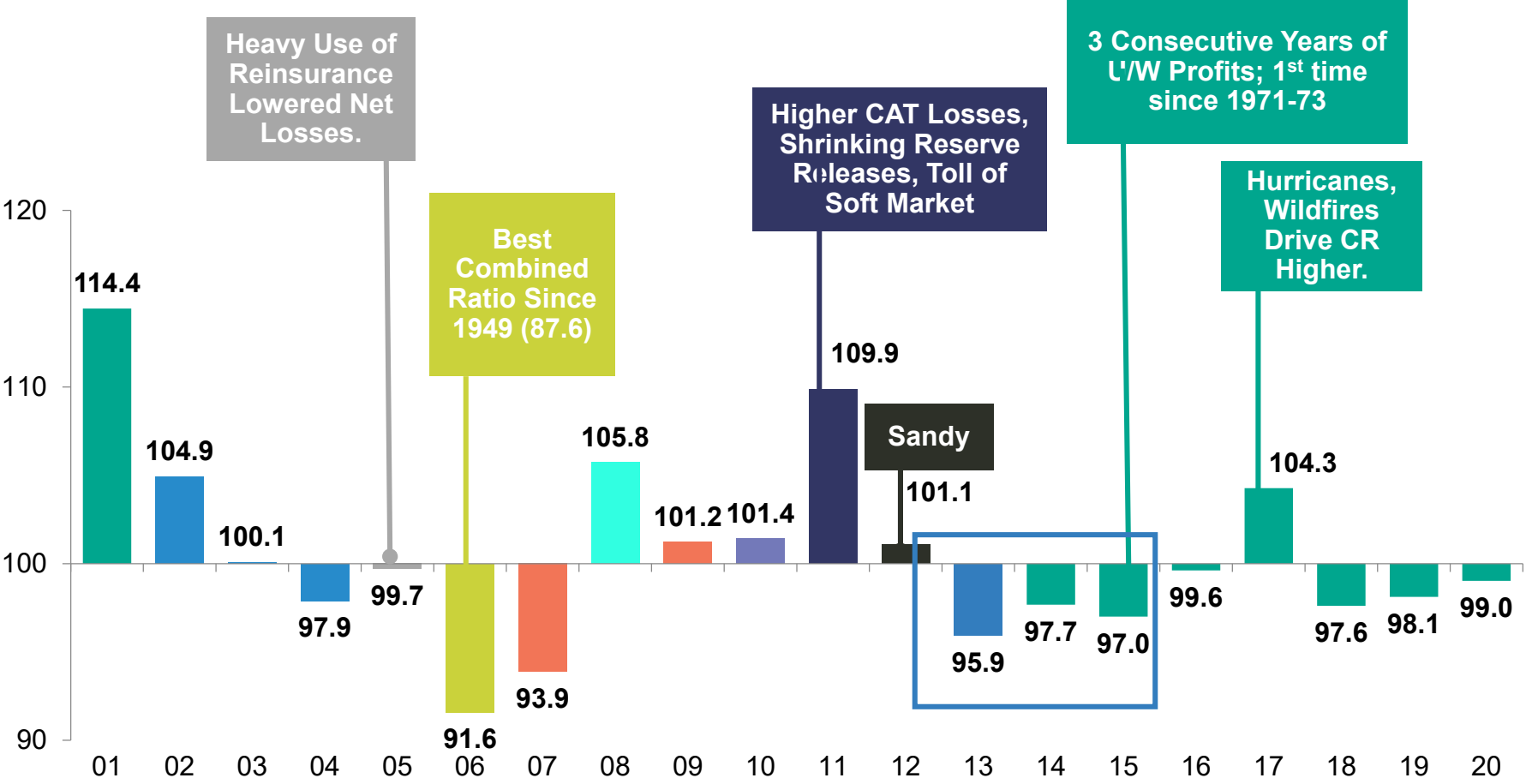
Medical Professional Liability

Technology Errors & Omissions

Cyber/Privacy Liability

COMBINED RATIO

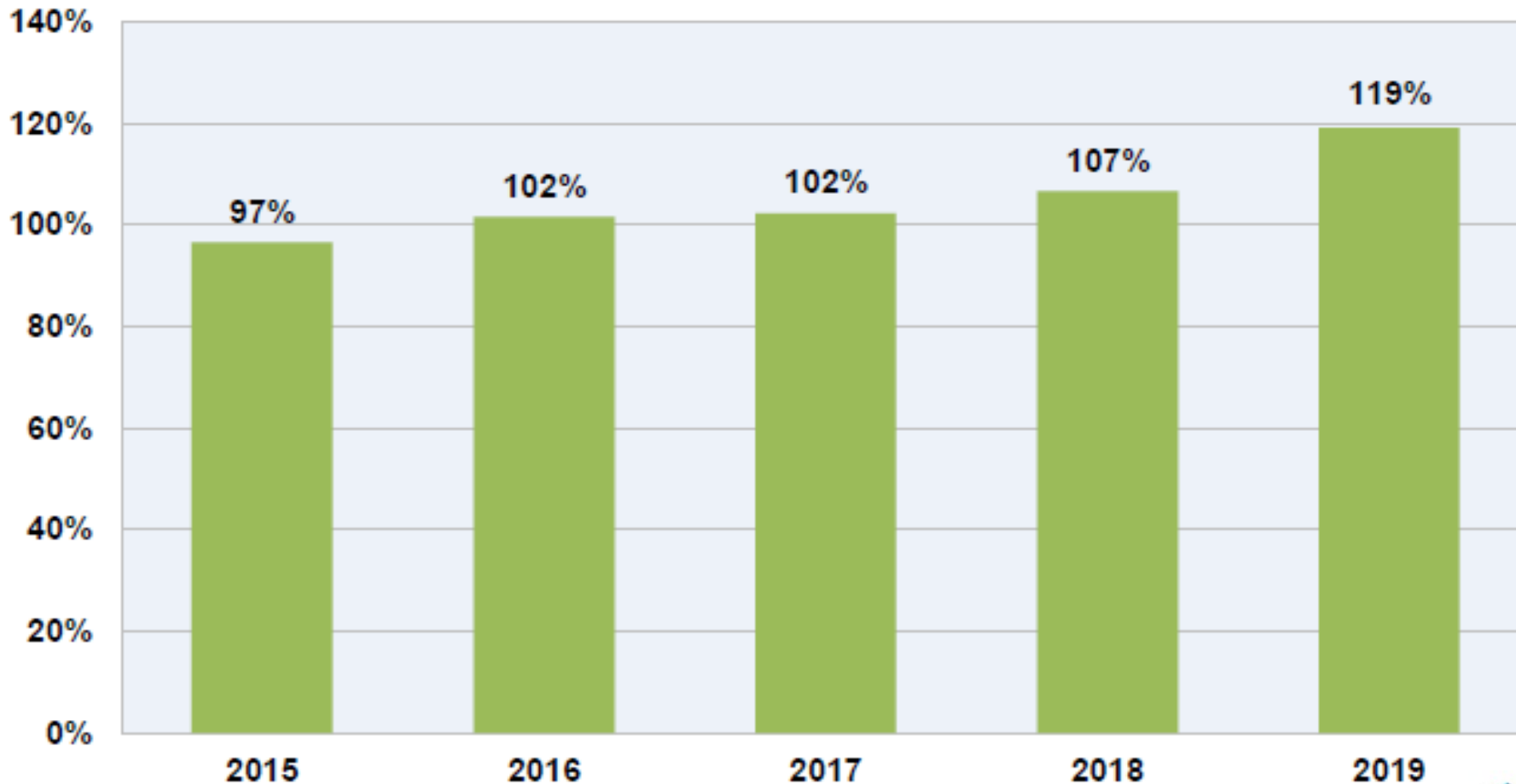
2001-2020 YEARLY AS OF Q3 (ALL P/C LINES)



Combined Ratio: Neutral



MEDICAL PROFESSIONAL LIABILITY – COMBINED RATIO



GALLAGHER TELEMEDICINE RESULTS

- Over 60 Telemedicine Clients
- Six Year Window
- Millions of Patient Encounters
- One Paid Medical Professional Liability Claim to date



WILL THE RESULTS HOLD?



- Increased Utilization
- New Offerings/Higher Acuity
- More Attention from Plaintiff Bar

LICENSURE IS THE MAJOR ISSUE!

- Where is the patient?



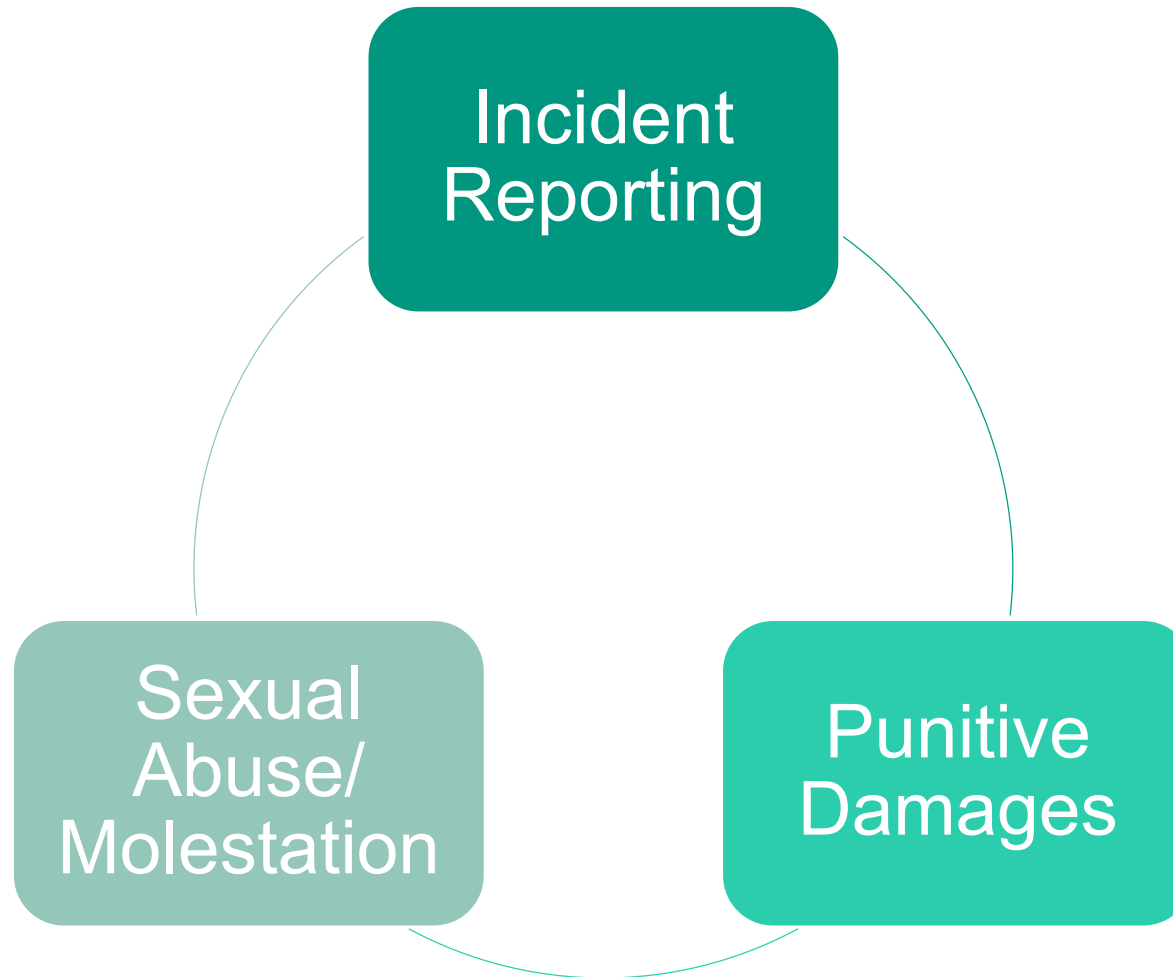
Does your policy exclude claims brought for actions provided in a state where the practitioner is not licensed?

HOW DO COVERAGE LIMITS APPLY?

- Most Telemedicine Providers Utilize Shared Limits
- No Individual Tail Required



ROUTINE POLICY ENHANCEMENTS

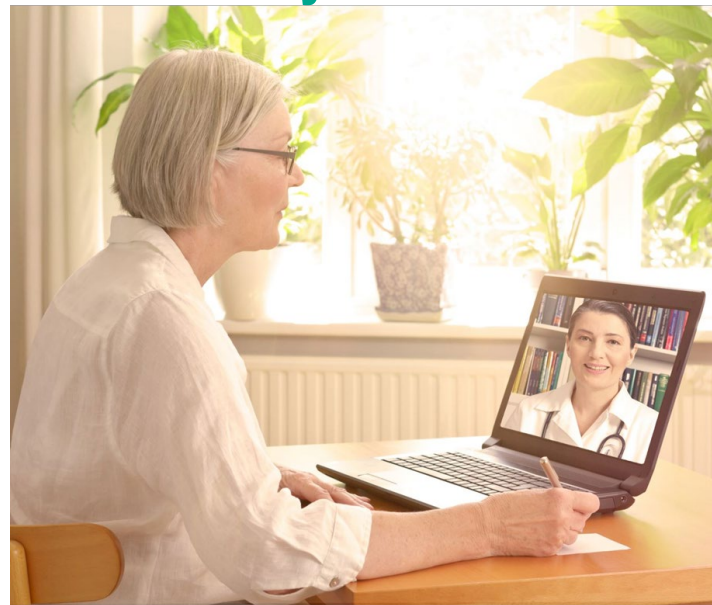


KEY CONSIDERATIONS

COVID -19/Pandemic Exclusions



Understanding the “Friendly P.C. Model”



Third Party Contracts: What are you being required to provide?



TELEHEALTH EXPOSURES



Bodily injury



Technology E&O



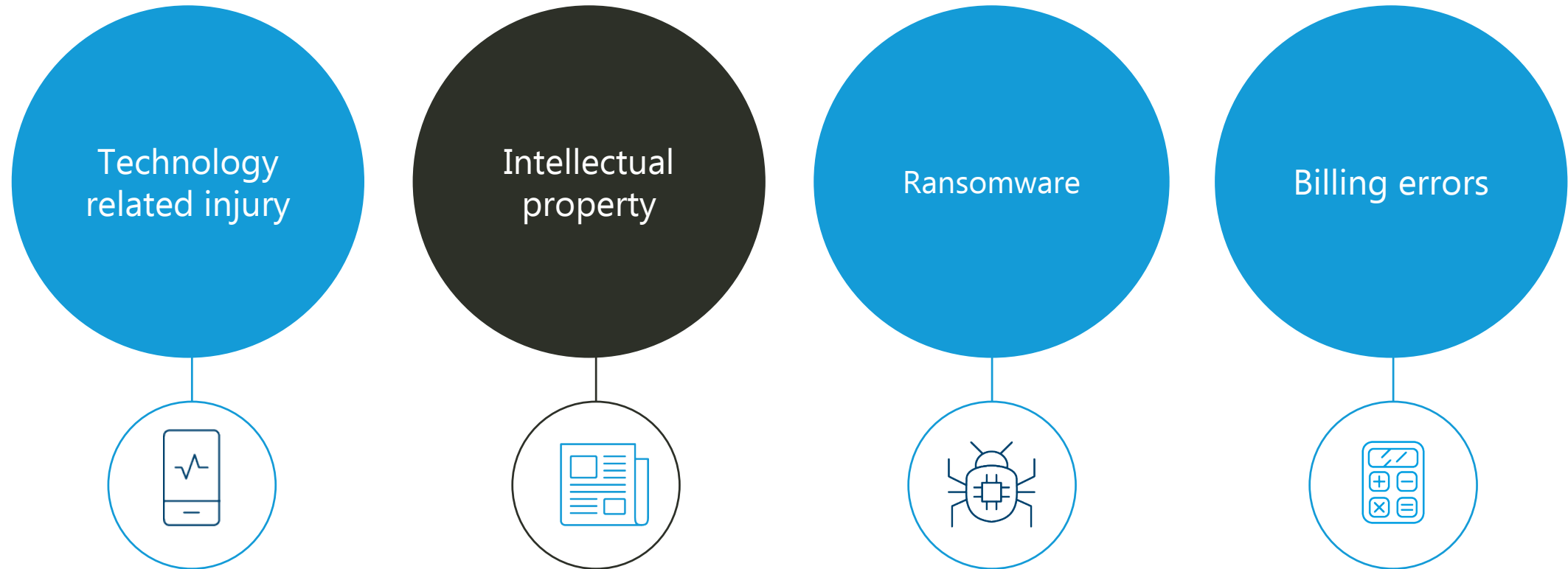
Cyber



General liability

EMERGING CLAIMS

- Over 65 percent of incidents reported to CFC have emanated from emerging risks



CYBER OR MALPRACTICE CLAIM? OR BOTH?

Interactive Telemedicine Services

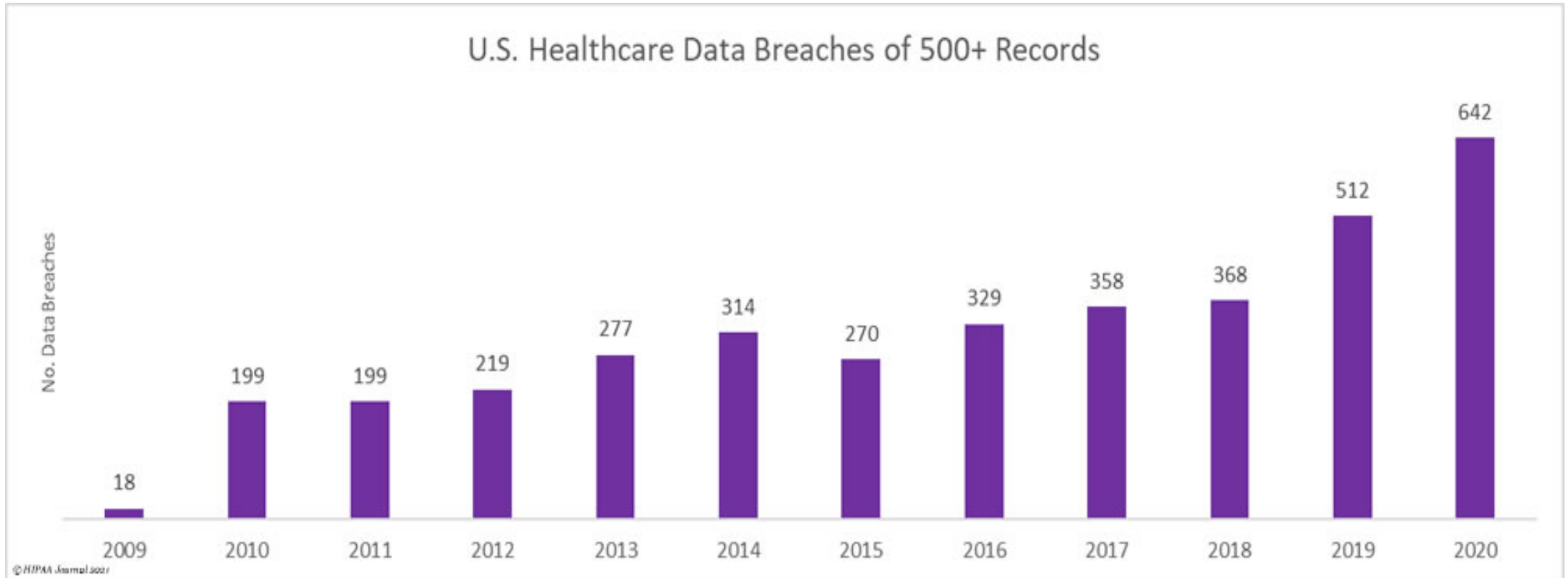
The physician tried to access a patient's medical records using a third-party healthcare information exchange. The physician was unable to retrieve the patients' medical records due to the EHR being hit with a ransomware attack and being taken offline (similar to that of All Scripts). Instead, the physician manually completed a health questionnaire via telemedicine, and then prescribed antibiotics to the patient. It transpired that the patient had misinformed the physician that they were allergic to penicillin resulting in death.



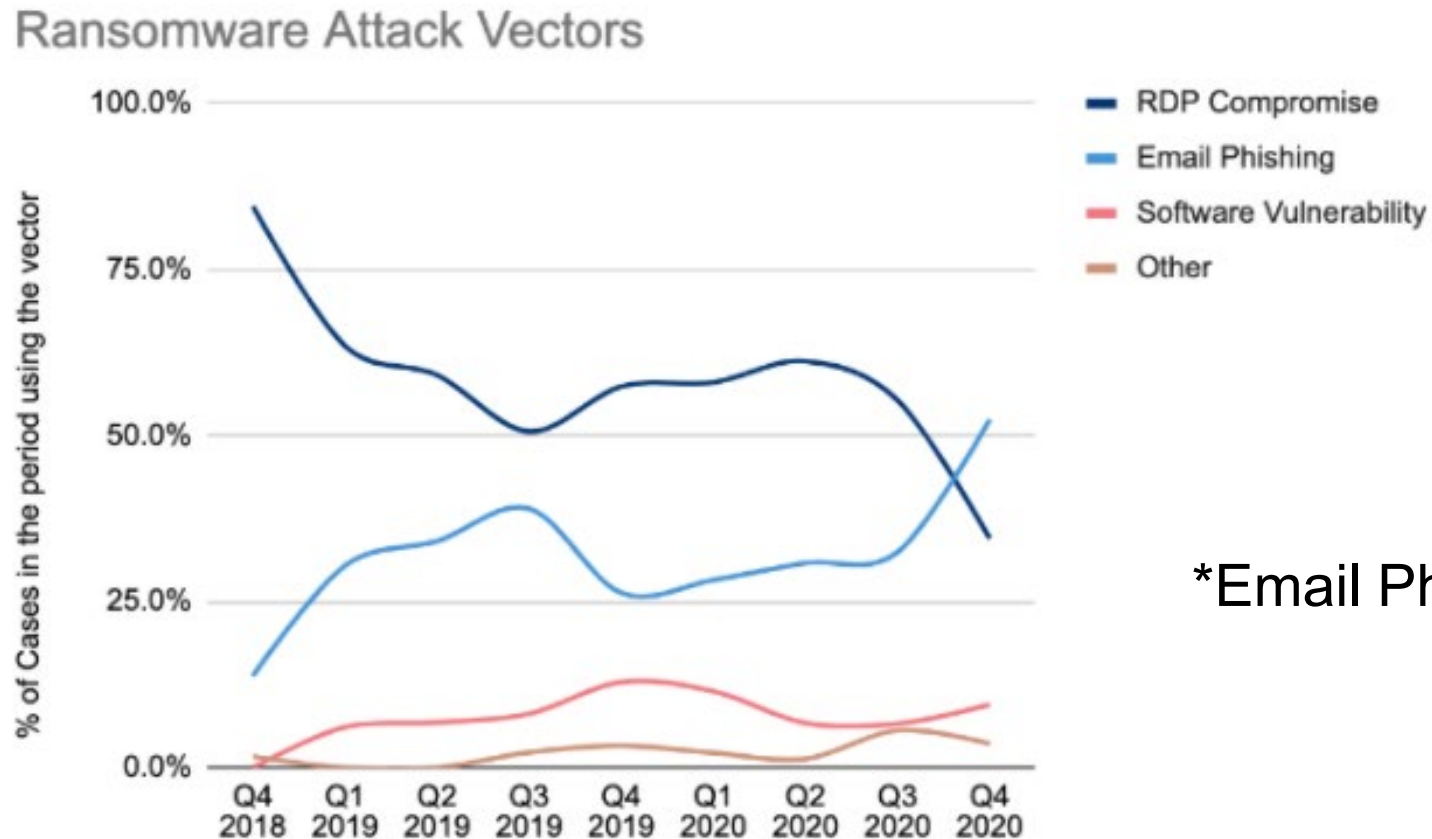
TRENDS IN CYBER RISK AND RANSOMWARE



HEALTHCARE TARGETING CONTINUES TO RISE



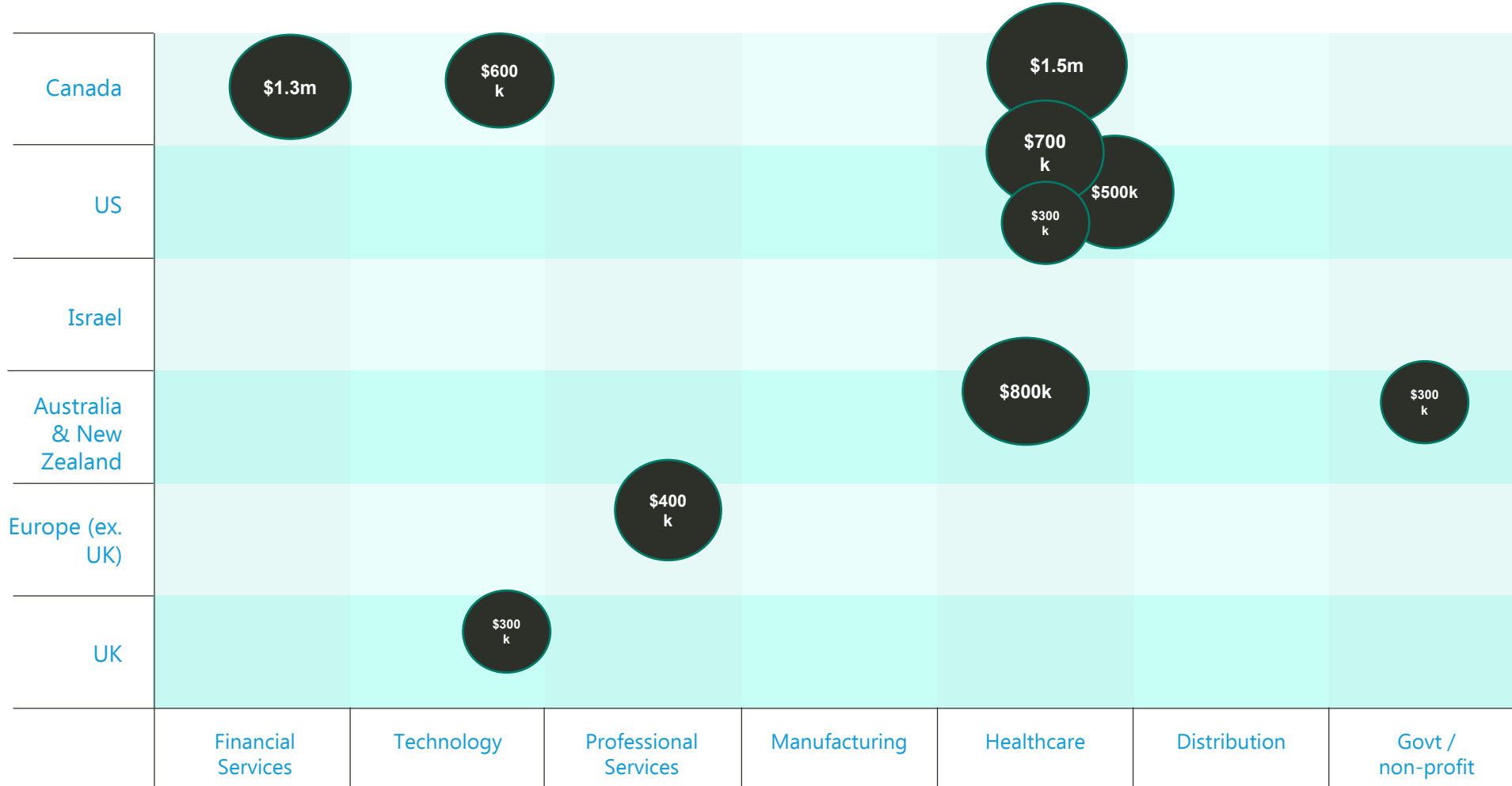
RANSOMWARE ATTACK VECTORS



*Email Phishing on the rise



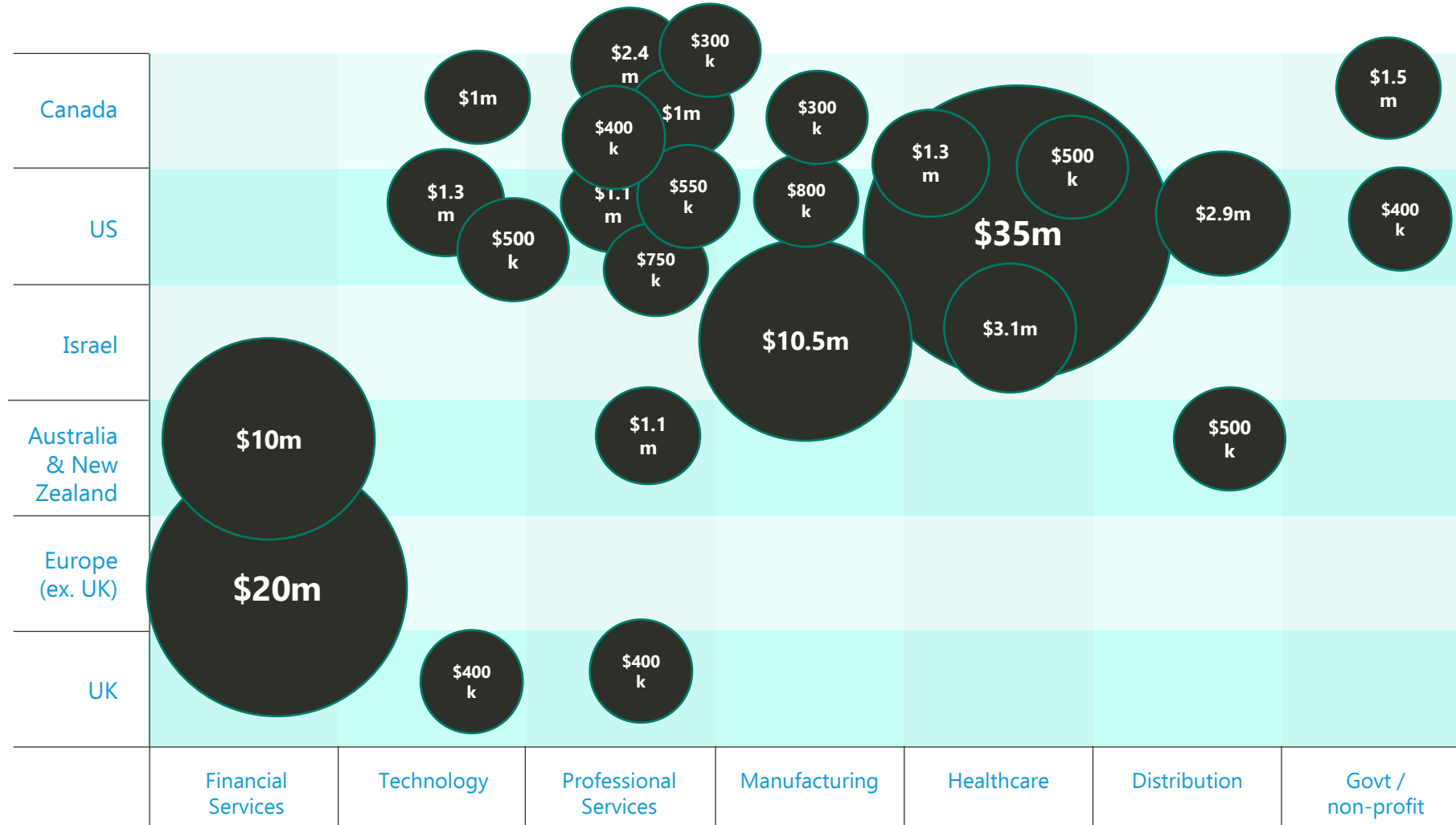
RANSOM DEMANDS OVER \$250K: 2019



Source: CFC



RANSOM DEMANDS OVER \$250K: 2020



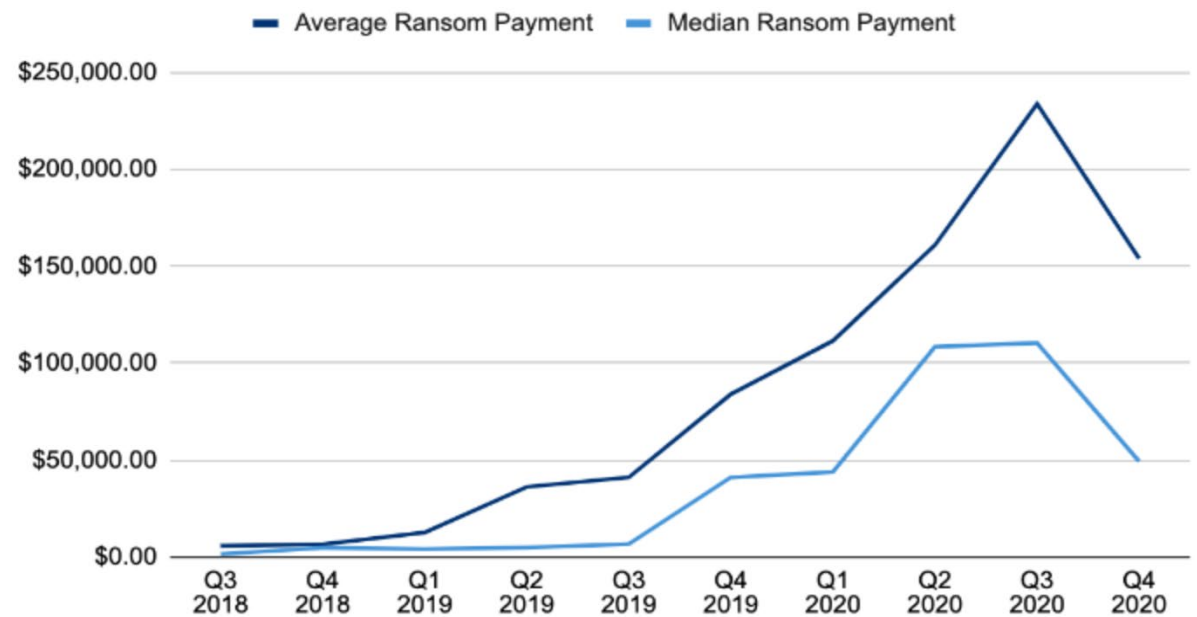
Source: CFC



RECENT RANSOMWARE TRENDS

- Q4 2020 – 70% of ransomware attacks involved the threat to release stolen data (20% increase Q3)
- BUT – Steep decline (34%) in average ransom paid in Q4 compared to Q3 2020.
 - More common for data to be made public after ransom paid
 - Better backups
 - OFAC advisory
- Downtime is largest source of losses: Q4 Ave. 21 days

Ransom Payments By Quarter



CRITICAL INCIDENT RESPONSE ELEMENTS

- Incident Response Elements
 - Preparation
 - Detection
 - Containment (**STOP THE BLEEDING**)
 - Eradication
 - Recovery
 - Post-Event Activity

INCIDENT RESPONSE PLANNING

- Critical to have a written, defined and **practiced** IRP
 - Roles should be clear (info sec; IT; legal; compliance; customer relations/support; media relations; executive leadership/board communications; etc.)
 - Define critical vs routine incidents
 - Training/tabletop exercise
 - Consider modules for specific types of incidents (e.g., ransomware; phishing; etc.)
 - Consider privilege issues
- Communications Protocol
- Establish in advance relationships with legal, forensic/eDiscovery, mail house and fraud detection services providers
- **Engagement with cyber/privacy insurance coverage**

LEGAL CONSIDERATIONS AFTER DETECTION

- What legal regimes apply?
 - Is the incident a “breach” (terminology is critical)
- Contractual obligations
 - Customer notifications
 - Dispute resolution
- When/if to notify insurance carrier?
- When/if to notify law enforcement?
- If ransomware, should company pay ransom?
 - OFAC considerations
- Should formal incident reports be privileged?
- When/if to share cyber threat indicators with ISAOs?

CYBER LIABILITY OVERVIEW



CYBER LIABILITY MARKET UPDATE



CYBER LIABILITY CAREFULLY CONSIDER YOUR LIMITS HEALTHCARE = #1 TARGET

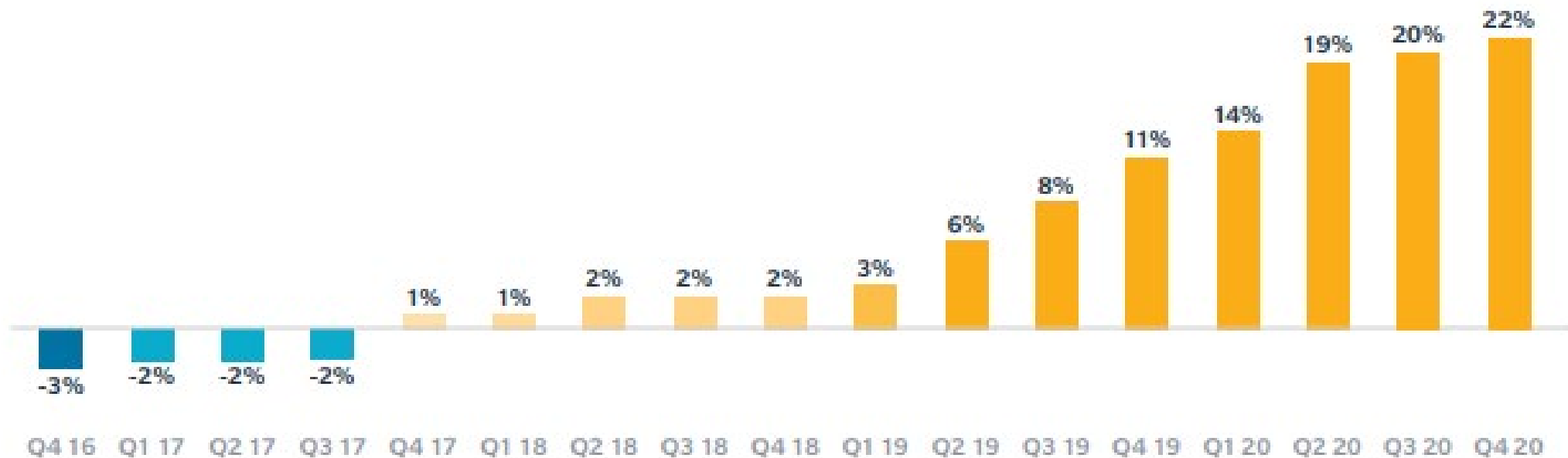


GLOBAL INSURANCE MARKET RATE CHANGE

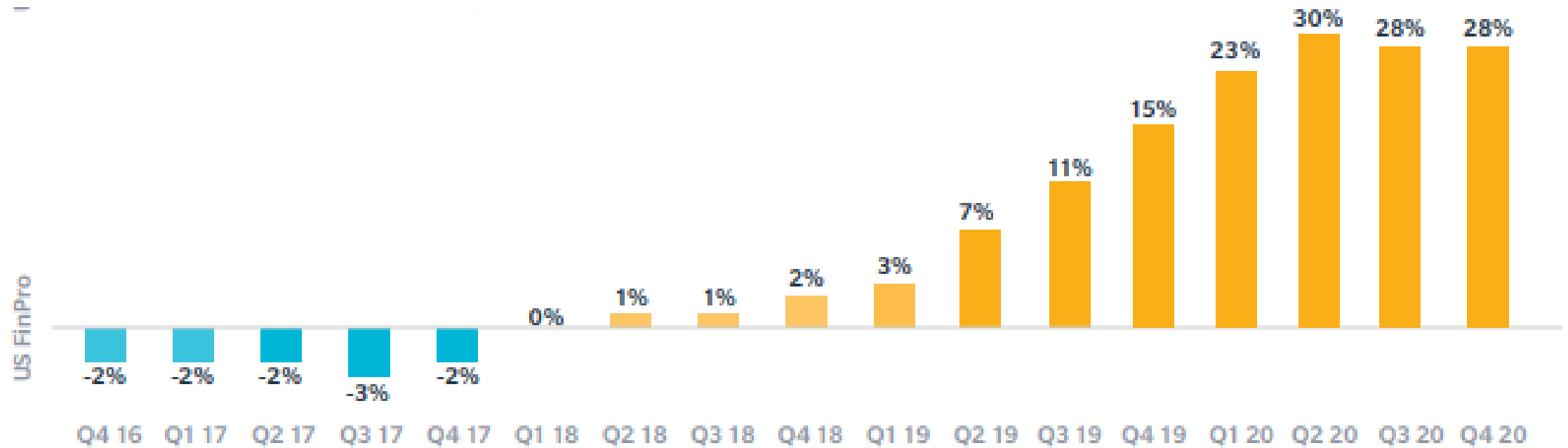
FIGURE
1

Global Insurance Composite Pricing Change

SOURCE: MARSH GLOBAL ANALYTICS



CYBER MARKET RATES ON THE RISE



KEY MARKET TAKEAWAYS

- Insurers starting to restrict and limit coverage
- Engage your IT team early
- Underwriters expectations of cyber hygiene of smaller businesses is rising
- Do not be tempted with “cyber lite” options that are cheaper



QUESTIONS?

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