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Insurance | Risk Management | Consulting

Spring/Summer 2021 Healthcare Market Update

As we reach the midpoint of 2021, the market remains very challenging and is pretty similar to 2020. While there is optimism toward some moderation in premium increases, it has yet to be widely seen in year-to-date 2021 renewals. Across the healthcare industry, renewal premium increases for many organizations have been upwards of 20 percent, which was unsettling for many after an already difficult year. What has made this market even more troubling is that there is no one single event to point to as the cause. Instead, a confluence of factors have challenged the industry, including social inflation, increased storm activity and pandemic losses. Additionally, carriers' ability to offset these results through investment income remains a challenge due to the lower interest rate environment.

Unfortunately, these factors likely will impact the market for some time. Despite pushing significant rate increases across most lines in 2020, the industry's combined ratio hovered around 100%. For example, many healthcare professional liability insurers experienced combined ratios in excess of 120% during the past year, forcing several carriers to exit the hospital segment. Accordingly, all market indicators point to a continuation of premium increases for the balance of the year and possibly into 2022.

However, there are signs pointing to some moderation as we move into the latter half of 2021. Many carriers have reported stronger results in the first quarter of this year, but that progress must be sustained for several quarters to see a true market shift. The challenges have not kept out new capital and the market is seeing some expansion, which will inevitably lead to more competition. Finally, despite across-the-board increases on January 1 reinsurance renewals, the rate increases ultimately ended up at the lower end of initial projections.

In this report we will analyze the market conditions within each major line of coverage and offer guidance to help you ensure a successful renewal outcome.

Property

Natural disasters and catastrophic losses remain a key driver for the property market. The rise in "unmodeled" losses (such as the Midwest Derecho and Winter Storm Uri in Texas) continues to impact the industry.

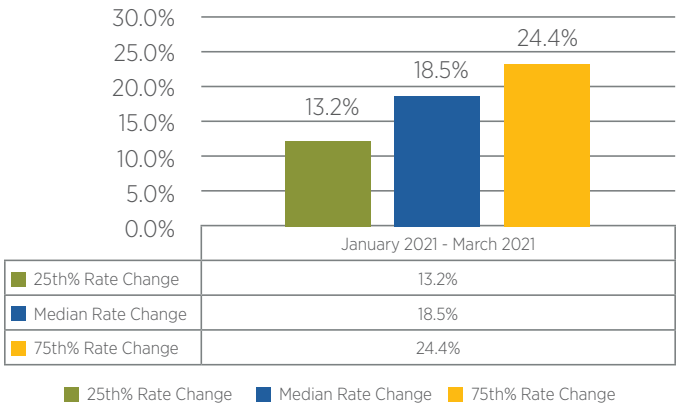
What we saw in 2020:

- 2020 was the most active Atlantic hurricane season on record with 30 named storms, according to the National Oceanic and Atmospheric Administration.
- The continuation of "unmodeled" risks continued to plague the Property marketplace (e.g., wildfires in California).
- Carriers scrutinizing client's statement of values, demanding in many cases that values be raised.
- Carriers for the 3rd straight year obtained significant rate increases across their Property portfolio.

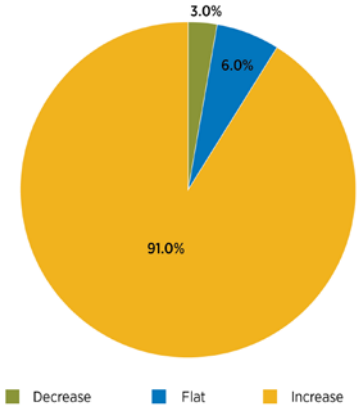
What we are seeing now:

- The winter storm (Uri) that hit Texas in February is the latest catastrophic event to occur with losses likely exceeding $20 billion.**
- Carriers are continuing to push sizeable rate increases in the national property space (rates > 15%+).
- Carriers are requiring more data than ever before. Carriers can be selective in this market as to which submissions that they want to quote.
- The changes in coverage terms and conditions in the property marketplace remain significant. Increasing deductibles, shrinking sublimits—especially in catastrophic exposed geographies (CAT)—and carriers' conservative limit deployment have led to less favorable terms and conditions for clients.
- Some clients are buying less insurance (or taking on higher retentions) to offset the rate increases

Property Rate Trend



Property Rate Change Distribution



Source: Gallagher Drive*

What we are watching:

- New capacity entering the marketplace (specifically in Bermuda and London).
- Court decisions on US BI exposure with respects to COVID-19 related losses.
- Impact of economy reopening
  - » Implications of new working models & supply chains.
  - » Underreporting values will not serve or save premium in the long run.
  - » Impact on BI exposure.
- Full long-term impact yet to be determined with so many unusual losses and claims this year.

Maximizing outcomes:

- Communicate, communicate and communicate.
- Obtain 3rd party engineering
- Focus on loss control recommendations — Loss Mitigation Strategies
  - » Carriers are not afraid to walk away from long-term clients.
  - » Carriers want to partner with clients who demonstrate a willingness to implement loss control recommendations.
- The amount of information carriers are requiring has increased dramatically in the past 10–15 years. Some models can require more than 100 data points. Get your data early and have it ready to go well in advance of your renewal (four to six months).
- Historical loss history matters. Create a narrative regarding lessons learned from losses and steps you are taking to prevent such losses.

Bottom line is that risk managers need to be willing to change and evolve with the times or face an uphill battle with regards to your renewal.

Navigating the many risk management disrupters that exist:

Idle and vacant facilities	Facilities reopening	Valuation
Supply chain interruptions	New COIVD-19 protocols	Wildfires
Maintenance concerns	On-site loss control visits delayed	Energy storage systems
COVID-19 impact on revenue	Non-modeled losses	Increased storage heights
Remote working	Water damage	Solar installations
Winter freeze	Civil unrest	Cyber risk/Cyber attacks
Natural catastrophe losses		Convective storms

**https://www.claimspages.com/news/2021/03/15/uri-could-signal-aboveaverage-cat-loss-year/

Healthcare Professional Liability

Rate increases for hospital medical malpractice have moderated. Absent of loss severity, rate increases have begun to stabilize, while insurers are seeking premium for exposure growth. We believe the market will become more stable over the next 12–24 months.

What we saw in 2020:

- Hospital exposures remained flat to some decline due to COVID-19 environment
- Loss severity remains on an upward trajectory exceeding 14% for losses above $10 million
- Insurers attempted to implement restrictions on COVID-19 claim activity
- Coverage for Opioid and SML exposure subject to underwriter review
- Increased rate demand of 10–20 percent on average
- Insurance segment responding to combined loss ratios in excess of 120 percent
- Key insurers elected to exit this segment

What we are seeing now:

- Rate increases of 10-20 percent continue for Health Systems per risk profile
- Physician insurers are seeking 5–10 percent increases varying by specialty
- Loss severity still a primary concern among underwriters
- Increased limits being requested by healthcare industry
- Carrier exits still a concern as CNA removes itself from primary and excess hospital professional liability
- New capacity is available and eager to respond to this space
- Increased interest in captive formations and alternative risk strategies
- Renewed consideration for London/Bermuda markets over domestic markets
- Reductions in limit capacity to $10–$15M

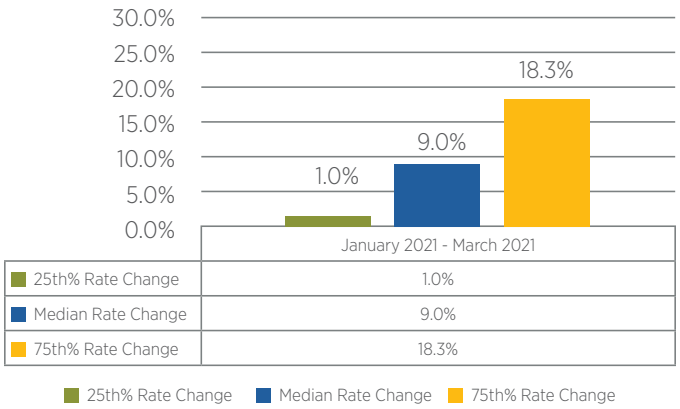
What we are watching:

- Hospital balance sheets are recovering
- Integration of digital health remains a top priority
- Will there be a push for COVID-19 batch related claim activity aimed at professional negligence
- Will insurers serving this segment continue to seek rate adjustments
- Will we see more carriers exit from this space

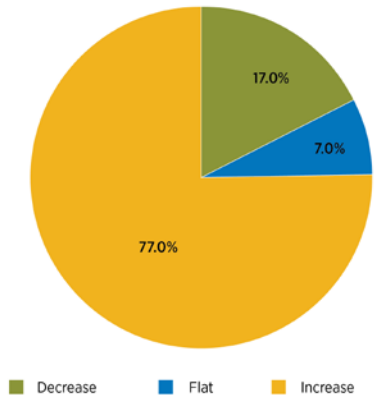
Maximizing outcomes:

- Start early, 120 days out or even earlier, but anticipate extended quoting process
- Communicate early and often with internal stakeholders
- Develop relationships with underwriters — incumbent as well as alternatives
- Create a presentation showcasing strategic initiatives and organizational successes

Healthcare Professional Liability Rate Trend



Healthcare Professional Liability Rate Change Distribution



Source: Gallagher Drive*

Workers' Compensation

Rate reductions on the workers' compensation side have moderated. We believe the market is at or near the bottom. Going forward, savings that were relied on in this space to offset other expense will not exist for much longer.

What we saw in 2020:

- Claim counts fell across all industries except healthcare
- There was a significant spike in healthcare claims.
- The claim mix has shifted toward higher severity.
- Workforce changes, fewer women in workforce, higher tenure
- Presumption laws created additional compensable claims
- Choppy recovery corresponding to COVID-19 waves and reopenings

What we are seeing now:

- Mass vaccinations causing a drop in COVID-19 claims volume, some vaccine reaction claims, new COVID-19 variants, reopenings, and changes in state COVID-19 guidelines.
- Stimulus, savings build-up and pent-up demand from extended quarantine

What we are watching:

- Industries are recovering, but there is room to go
- Employees are returning, but are they prepared?
  - » Are newer workers going to have higher accident frequency?
- Claim trends are impacted by the changing nature of the workplace (i.e., more work from home).
- COVID-19 is still active in the country.
  - » COVID-19 long haulers continue to feel symptoms long after the days or weeks that represent a typical course of the disease.
  - » Presumptive laws Introduction of legislation in at least 12 states that create workers' compensation presumption of compensability, which could apply to infection diseases and pandemics beyond COVID-19, which will make it interesting to see how carriers, regulators and employers respond.
  - » Delayed medical treatment.
  - » Potential increase in mental health claims.
  - » Potential changes to workers' compensation regulation on infectious disease.

Maximizing outcomes:

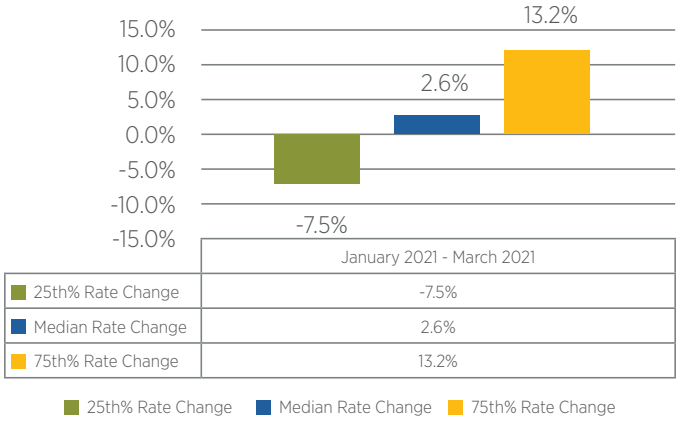
For employees

- Protocols for COVID-19 exposures
- Processes and safety practices
- Training and monitoring

With underwriters and actuaries

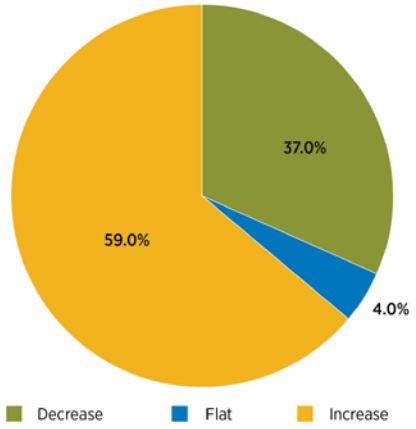
- Communication is key: Remember, you control the story.
- Ensure all safety and loss control efforts are documented and up to date.
- Analyze claim trends — volume, severity and complexity (with and without COVID-19).

WC Rate Trend



	January 2021 - March 2021
25th% Rate Change	-7.5%
Median Rate Change	2.6%
75th% Rate Change	13.2%

WC Rate Change Distribution



Source: Gallagher Drive*

Directors & Officers

The Directors & Officers (D&O) marketplace has been distressed for several quarters, with every aspect impacted, including premium, retention, capacity, attachment and terms and conditions. The healthcare management liability sector has continued to prove challenging through Q1 of 2021, this is predicted to remain through 2022 subject to carrier profitability and insured claims frequency and severity.

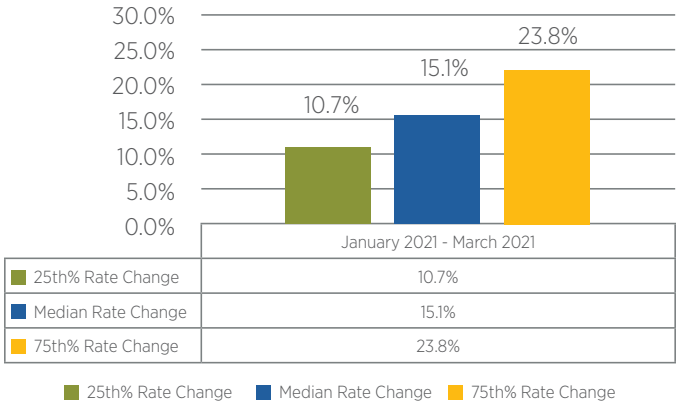
What we saw in 2020:

- Primary capacity cuts
- Excess capacity was plentiful
- Heightened frequency and severity of EPL claims
- Private equity sector looking for healthcare M&A opportunities
- Retention increases
- Premium increases across the board and in the double digits

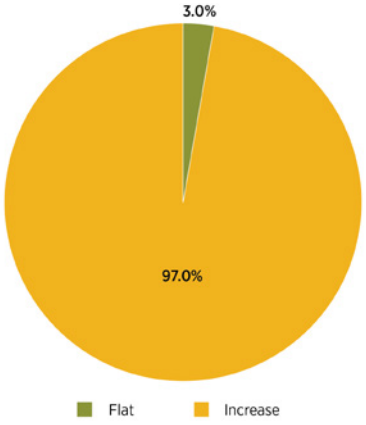
What we are seeing now:

- Even though most cuts in capacity took place in 2019–20, capacity will be reviewed intently.
- Expect upward movement in Excess attachment points

D&O Private Rate Trend



D&O Private Rate Change Distribution



Source: Gallagher Drive*

- Expect fewer retention increases in 2021 excluding:
  - » Large growth in exposures
  - » Excessive fee claims retentions can exceed $1M for larger plans
  - » Carriers will attempt to significantly increase EPL retentions.
- Terms and conditions: Tightening of ERP, Side A reinstatements, and reductions in Derivative Demand Investigative Costs are seen frequently.
- Primary carriers are targeting at least double-digit premium increases on their D&O and EPL private/nonprofit renewals, ranging from 10–25%.
  - » We are seeing rate increases for Fiduciary Liability and Crime subject to change in exposures and claims activity.
  - » The Fiduciary increases can be very large for employers with large plan assets.
  - » Crime premium increases are in low single-digits.
- We see continued, heightened frequency and severity of EPL claims.
- The private equity sector continues to look for healthcare M&A opportunities. This type of activity is considered by D&O liability underwriters a heightened exposure and generates a higher probability of a claim.

What we are watching:

- Pressure on the boards of healthcare organizations has never been greater, largely due to "event-driven litigation." That event can be something completely outside the control of the board, but stakeholders and regulators are scrutinizing how the leaders of the organization could have prevented the event or managed the event more effectively and efficiently. Cyber-related breaches and ransomware attacks are on the forefront of this concern.
- Excess capacity is still plentiful, but several carriers have recently started to demand higher premiums and/or fully decline the class of business if risk factors are concerning or outside their underwriting guidelines (financials, location, growth, claims, YOY performance).
- Carriers are attempting to pare back coverage for antitrust, regulatory defense for fines and penalties, and other coverage terms that we negotiated during the soft market. Negotiating and/or marketing is essential to prevent this.
- Industry consolidation, through mergers and acquisitions frequently leads to redundancy of positions and reductions in staff to control expenses in order to maximize profitability. The need to control expenses due to margin compression generated by the pandemic has led to reductions in force, which in turn has led to an increased frequency of claims.

Maximizing outcomes:

- Beat the averages
- Start early, 120 days out or even earlier, but anticipate delays in the quoting process
- Communicate early and often with internal stakeholders
- Develop relationships with underwriters — incumbent as well as alternatives
- Showcase positive risk factors
- Consider leveraging ancillary lines

Cyber

For the majority of its relatively short life, the cyber insurance market saw rapid expansion and nimbly evolved to meet changing cyber threats. Cyber insurance buyers enjoyed expanding coverage terms, plentiful capacity and flat to falling rates in a highly competitive marketplace. With the rise in ransomware attacks across the U.S. and increases in carrier-reported losses, the cyber insurance market hit an inflection point in 2020.

What we saw in 2020:

- Carriers became pressured due to the increasing frequency and severity of cyber claims and a more stringent regulatory environment at the state, federal and international levels.
- We're seeing rate increases, with larger companies subject to greater increases and increased underwriting scrutiny.
- 2020 began with the first real signs of a hardening market as the larger, more sophisticated risks in specific industry sectors became subject to greater underwriting scrutiny and ultimately increased premiums and that trend continued and accelerated into the latter half of 2020.

These trends continued and accelerated into the latter half of 2020, and continue to be even more challenging in 2021.

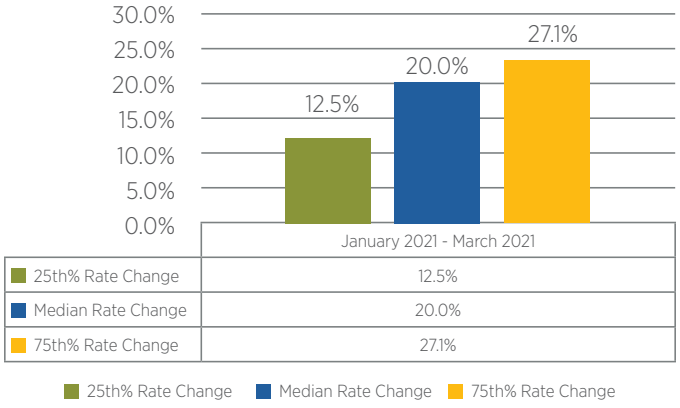
What we are seeing now:

The cyber insurance market, after many years of profit and plentiful underwriting capacity, is hardening rapidly. In particular, the ransomware losses of the past 18 months have hit the bottom line, prompting cyber insurers (and their reinsurers) to take dramatic steps to manage their exposure going forward. This includes a new focus on risk selection based specifically on the controls that an insured has in place to protect against ransomware attack and the consequent losses. There is a broad consensus among cyber insurers as to the base controls and measures needed, and the insurers are restricting or denying coverage to insureds that do not employ those controls. Restrictions in coverage can include sub limits and coinsurance on ransomware losses — not just for the extortion demand itself but all consequential covered losses, from forensics to business income loss and liability for data breach.

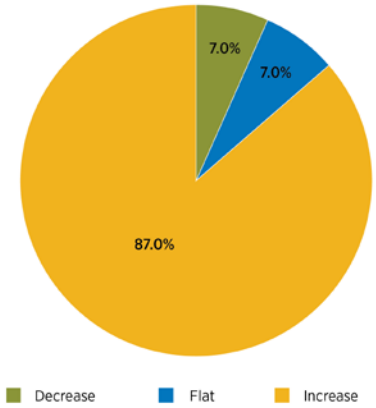
Further, since the beginning of 2021, premium rates have been increasing, in some cases on an almost monthly basis, so that rate increases of 25% to 65% (and more) are typical for good risks. This is often compounded by increases in self-insured retention and reduction in offered policy limit, further raising the total effective rate increase for renewal. Rate increases for less attractive risks often reach 100% or more, if the insurer will even quote. Competition between insurers on a primary basis is down, as underwriters are unwilling to compete hard for business, even at higher rates. Most insureds are renewing with their incumbent primary insurer, despite the worse terms at renewal.

Healthcare has taken its share of ransomware hits, as attackers target providers and payors, often causing insureds to take their systems offline and revert to paper records and incur business income loss through downtime. The latest trend in ransomware is for the attacker to make a follow-on demand in return for not releasing private data to the public, itself leading to data breach situation with its consequent costs of notification and regulatory scrutiny from The Office of Civil Rights (OCR) and states' Attorneys General. The OCR has taken the position that ransomware infections are reportable breaches under HIPAA, unless a Covered Entity can clearly demonstrate that there is a "low probability that the PHI has been compromised." If a malicious actor gains access to electronic Protected Health Information (ePHI) and encrypts data, then this is a disclosure that is not permitted under the Privacy Rule, and the same applies to access to unsecured ePHI. The ransomware problem exists for healthcare organizations of all sizes. Large organizations typically have better defenses through larger budgets, but attackers realize they can make larger demands with no added risk of being caught. Smaller organizations don't have the resources to pay large ransom demands, but their systems can be less sophisticated and easier to breach.

Cyber Rate Trend



Cyber Rate Change Distribution



Source: Gallagher Drive*

Of course, the general risk of data breach continues unchanged for healthcare organizations, overlaid by costs and consequences of increasing regulation through new state privacy laws. And business email compromise losses remain a continuing concern for insurers.

What we are watching:

- In this hard market, we are monitoring:
  - » Insurers' use of external scans of insured's networks to supplement their underwriting information
  - » Information requests on controls against ransomware — many insurers now have their own supplementary questionnaires
  - » Insurers' shrinking capacity and appetite for risk in certain business sectors and size of insured

Maximizing outcomes:

- Full consideration of the issues that are causing cyber losses (and the hardening market) and expectations for renewal
- Early discussion with insureds about the controls that insurers are looking for, addressing concerns:
  - » Keeping the attackers and their malware out of the network
  - » Detecting network intrusions and suspicious behavior
  - » Protecting user and privileged accounts/limiting the attackers' lateral movement
  - » Preparing for, and responding to, and mitigating attack
- The difficult market requires us to prepare and strategize in order to make the most of available options and alternatives, through
  - » Perfecting, as far as possible, insureds' responses to the ransomware applications
  - » Involving the CISO in the application and marketing to insurers
  - » Early approach to the market
  - » Broad marketing, for choice and leverage

Conclusion

The full duration of the pandemic, the magnitude of its economic impact and the subsequent impact on the insurance industry is still unclear. However, the underlying underwriting fundamentals we see as a result of the environment today are likely to continue through 2022. Insurers serving the healthcare market segment will continue to seek rate adjustments for the next few years. It is our responsibility to present your organization to underwriters highlighting key successes, enhance risk mitigation and strategic objectives over the next five years in order to preserve coverage terms and rate stability. Expect renewal cycles to take longer and necessitate more interaction with your underwriters when time allows.

Because of the highly nuanced nature of this market, it is imperative that you are working with an insurance broker who specializes in your particular industry or line of coverage. Gallagher has a vast network of specialists that understand your industry and business, along with the best solutions in the marketplace for your specific challenges.

Sources:

*The data for all charts within this document were pulled utilizing Gallagher Drive®, our proprietary data and analytics platform. US Client Data, Jan 2021–March 2021. The median is the value separating the higher half from the lower half data sample (or the middle value). Due to the variability that we're seeing in this market and specific account characteristics, individual rates may vary.

[1] https://www.claimspages.com/news/2021/03/15/uri-could-signal-aboveaverage-cat-loss-year/

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