The evolution of digital health: Problems, pitfalls and policies

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24th April 2019

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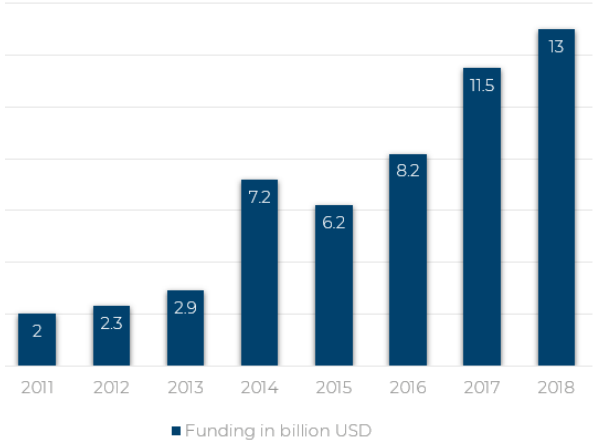
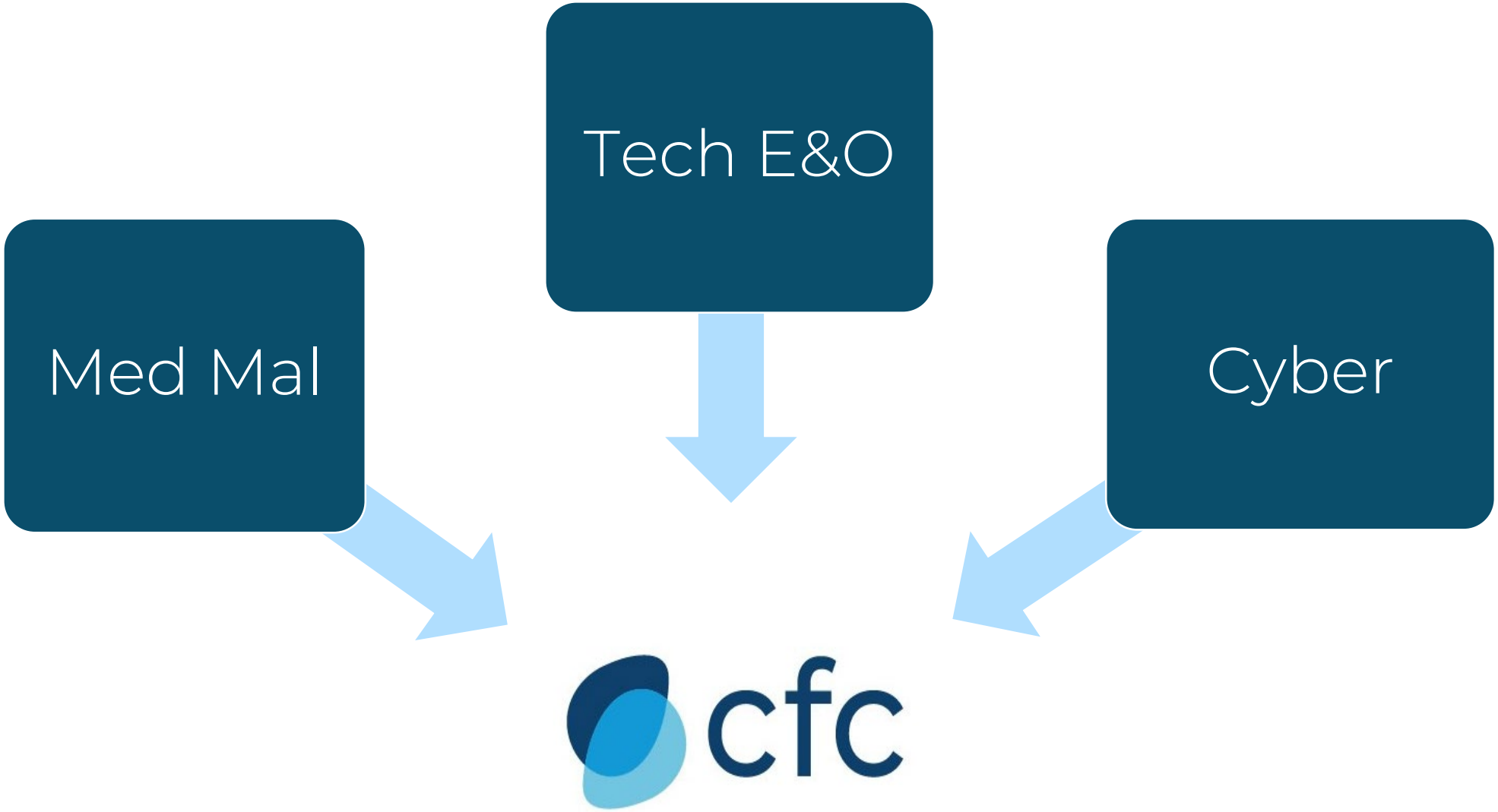
Recap


13
11.5
8.2
7.2
6.2
2.9
2.3
2
2011
2012
2013
2014
2015
2016
2017
2018
Funding in billion USD


Tech E&O
Med Mal
Cyber
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Malpractice

INSURING CLAUSE 1: PROFESSIONAL LIABILITY

SECTION A: BODILY INJURY

We agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against **you** during the **period of the policy** arising out of **bodily injury** in the provision of **healthcare services** or **technology activities** as a result of any:

a. negligent act, error or omission;

b. **cyber event**;

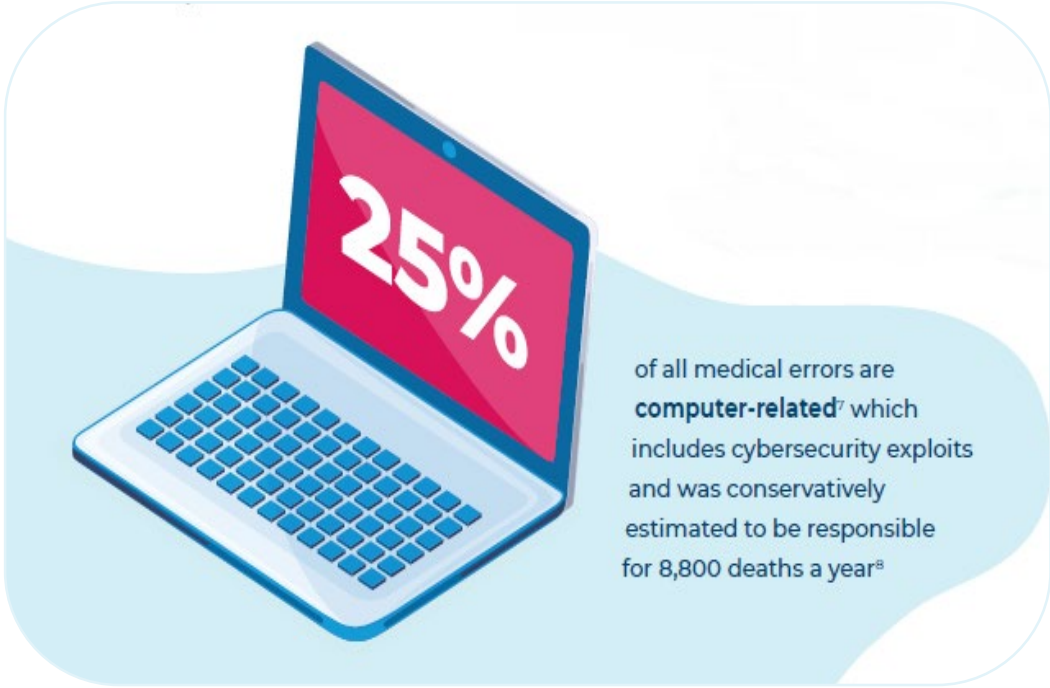
c. **system outage**;

Malpractice claims example

- Bodily injury:
  - Healthcare services
  - Technology activities
  - Cyber events
  - System outages

Technology E&O

- Technology and software failure
- Intellectual property rights and infringement



Technology E&O claims example

*Normally when something goes wrong, the source of the blame can easily be traced. For example a misdiagnosis would usually be the responsibility of the **presiding physician**. A faulty **medical device** which gives an incorrect read, harming a patient would likely see the **manufacturer** held to account.*

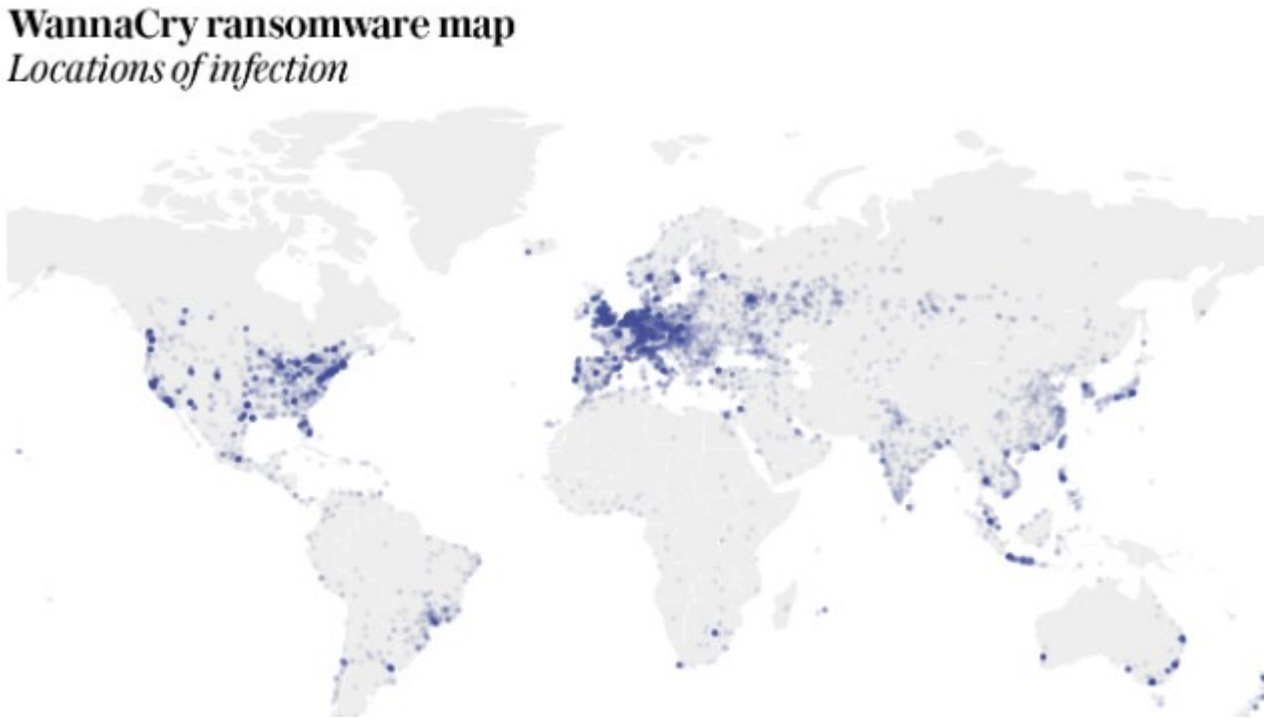
*What would this mean for **AI**?*

Cyber

- Cyber & privacy liability:
  - Cyber incident response costs (including IT forensics, legal, breach notification, crisis communications, first and third party privacy breach management costs and post breach remediation costs)
  - Regulatory actions (including regulatory fines, penalties and resolution agreements and corrective action plan costs)
  - Cyber extortion
  - System damage
  - System business interruption
  - Cyber crime (optional)

The evolution of digital health: Problems, pitfalls and policies

Cyber claim example



Cost: £92m

Cancelled appointments: 19,000

Downtime: 7 days

eHealth policy form

Bodily injury

Technology E&O

Cyber

General liability

Policy form comparison

	Bodily injury	Technology E&O	Intellectual property rights and infringement	Products failing to perform	Cyber liability	General liability
eHealth	✓	✓	✓	✓	✓	✓
Malpractice only	✓	✗	✗	✗	✗	✗
Technology E&O only	✗	✓	✓	✗	✗	✗
Cyber only	✗	✗	✗	✗	✓	✗

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