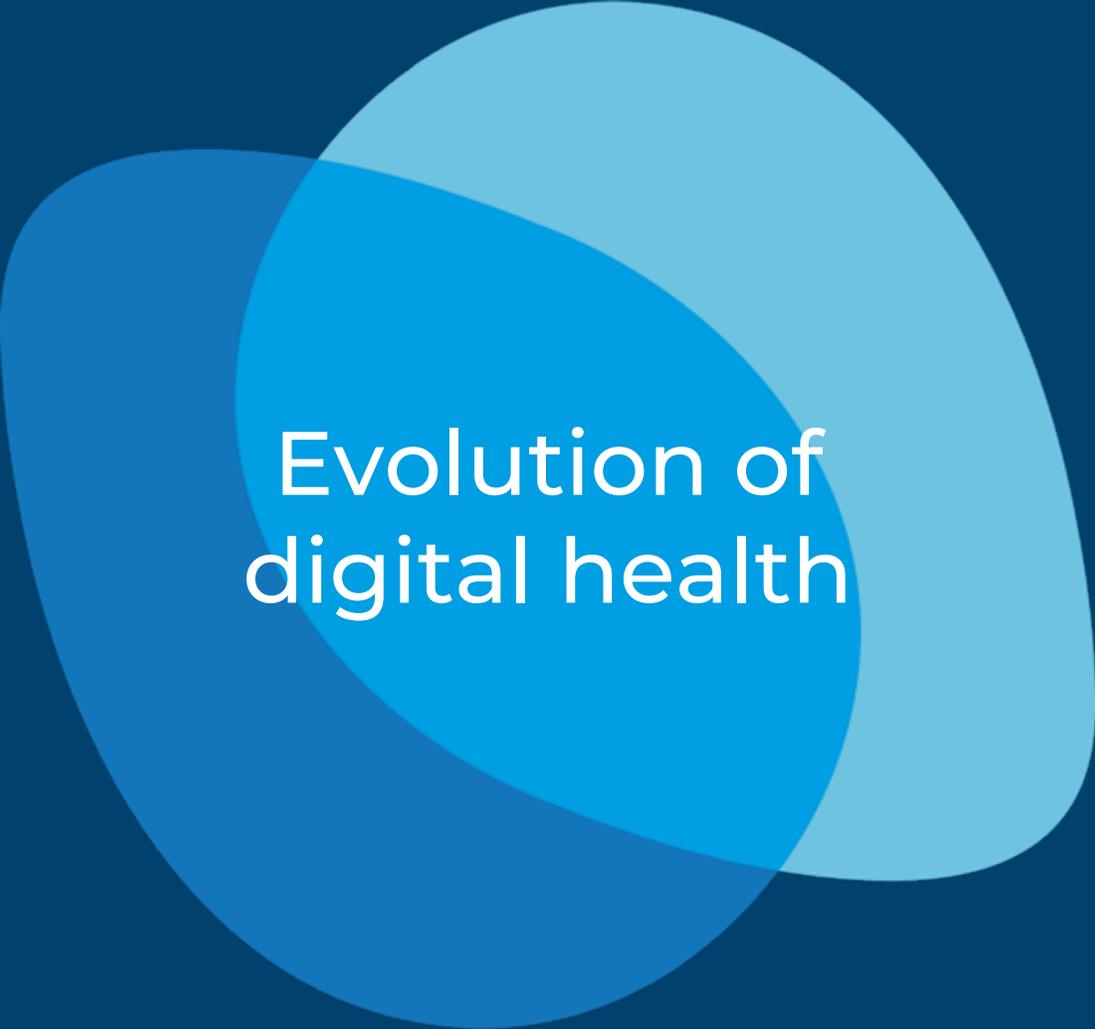


# Digital health: The new liability landscape

Rebecca Pelling and Andrew Dallamore

14 June 2022





# Evolution of digital health

# Traditional



Doctor appointments

Remote patient monitoring

Artificial intelligence

# Revolutionized





Digital health  
funding

# Distribution network



Broad geographical distribution supported by local relationships



Europe

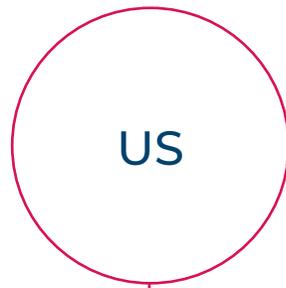
**\$7b**

In funding

**1,300+**

deals

Leading countries include,  
UK, Denmark, Estonia



US

**\$29.1b**

In funding

**183**

Deals in first quarter of  
2022

\$32.8m average deal size



Canada

**\$1.75b**

Invested in life sciences and  
healthcare sector

**\$400m**

\$400m for provider focused  
companies

753 deals



Australia

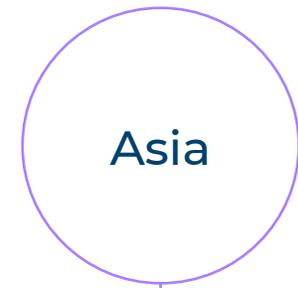
**\$1.7b**

Ensuring telehealth  
remains permanent

**\$295m**

to improve remote  
health in rural areas

88% of the population  
wanting to access their  
healthcare online



Asia

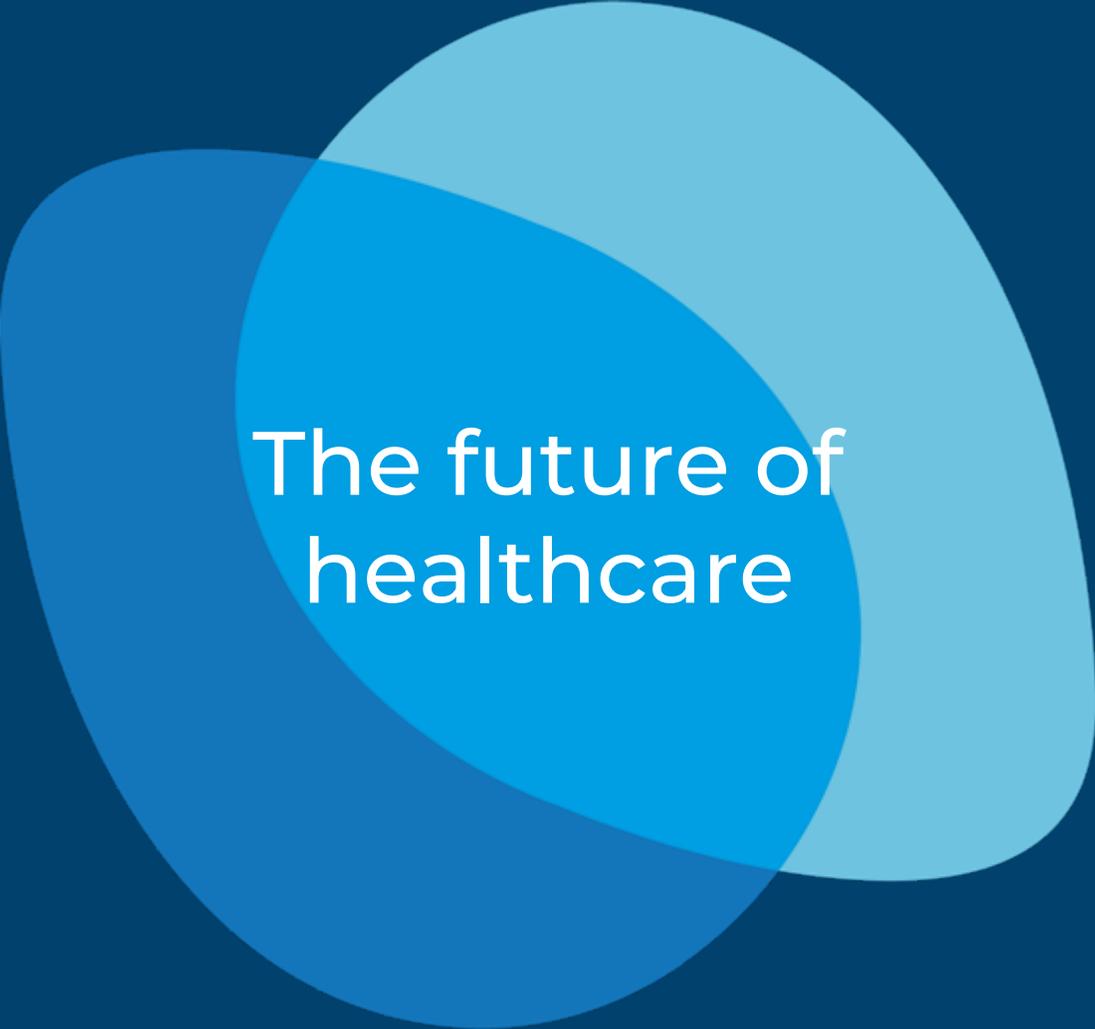
**\$100b**

Predicted by 2025

**170%**

Increase from 2020

Singapore, China, India  
and Indonesia seen as key  
growth areas



The future of  
healthcare

# Virtual reality, augmented reality and the metaverse

## Metaverse:

“A future persistent and interconnected virtual environment where social and economic elements mirror reality. Users can interact with it and each other simultaneously across devices and immersive technologies” – World Economic Forum (<https://initiatives.weforum.org/defining-and-building-the-metaverse>)

## Augmented reality in surgical procedures

- John Hopkins’ first AR-assisted surgical procedure to relieve chronic back pain
- Technology-enabled procedure via a headset with a display displaying the patient’s internal anatomy informed by the individual patient’s past CT scans

## Medical education

FundamentalVR Ltd provide an educational platform including a “Teaching Space” feature. Users can:

- Interact with one another and the instructor
- View and discuss a surgical procedure
- Attempt to perform the surgical procedure in a virtual operating room

## VR in mental health therapy

Israeli Field Hospital “Kohav Meir” provided mental health trauma relief to Ukrainian refugees displaced by the war via virtual reality goggles

“They are given a sense of empowerment, so that they don’t feel like victims anymore...Using VR glasses takes them to a safe place, helps them feel their inner self-confidence once more”

*Delegation’s Head of Mental Health Services Bella Ben-Gershon*  
[www.calcalistech.com/ctechnews/article/skbbgulnc](http://www.calcalistech.com/ctechnews/article/skbbgulnc)

# Three key components to the metaverse

## Telepresence

Technologies enabling a user to be present, feel like they are present or have an effect in a space where they are not physically situated

A means of connecting with global specialists and facilitating remote treatments and procedures



## Digital twinning

Forbes: “a virtual model, or simulation, of any object, process, or system, generated using real-world data, for the purpose of learning more about its real-world counterpart”



## Blockchain

Decentralised databases that are encrypted enabling secure data storage and transfer; only the data owner can manipulate the data

**Greater ability to store and exchange data securely with more patient control**



## CVS Health: Filed for trademark patent in the metaverse

- Establish an online store to sell virtual and non-virtual goods
- Enable them to perform virtual services including wellness programs, nutrition services and lifestyle counseling
- Mission: To be the first pharmacy operating in the metaverse

## Ark Invest and Gem:

- Patient incurs bodily injury
- Usual primary care physician is unavailable, patient grants access to their ER physician for a set period
- ER Physician can add information, but cannot change the original Health Record that they accessed
- Their access expires, and the Primary Care Physician has full view of the Health Record including all events whilst away

# Potential liability issues

## Consent

Requires clear and precise descriptions of:

- What will the treatment consist of?
- Benefits and Side Effects of the treatment
- What other options are available to the patient?

Will text-based privacy policies and consent forms be adequate for virtual reality treatments?

## Mental anguish

New York Post, 17 December 2021:

A woman beta testing Meta's new metaverse VR platform "Horizon Worlds" revealed that she was virtually groped in the virtual space

Victim: "Sexual harassment is no joke on the regular internet, but being in VR adds another layer that makes the event more intense...there were other people there who supported this behaviour, which made me feel isolated"

Experts have expressed that "sexual harassment in virtual reality is sexual harassment in real life, full stop"

(<https://nypost.com/2021/12/17/woman-claims-she-was-virtually-groped-in-meta-vr-metaverse/>)

To what extent will anonymity impact cases of abuse and mental anguish in the metaverse?

# CFC Response

The team, technology and intelligence that support our customers before, during and after a cyber event.

CFC Response has proactively prevented over a thousand cyber attacks and handled over 3,500 cyber events in the last two years. Our award-winning team of more than 100 cyber incident specialists around the world serve 60,000+ businesses across 65 countries.



Claims Product  
Solution of the Year

Insurance Times Claims  
Excellence Awards 2021



Cyber Claims  
Team of the Year

Insurance Insider  
Cyber Rankings 2020

100+ cyber specialists

2,000+ incidents a year

24/7 response

20+ years

Industry's  
leading cyber  
incident  
response app

Team



Technology



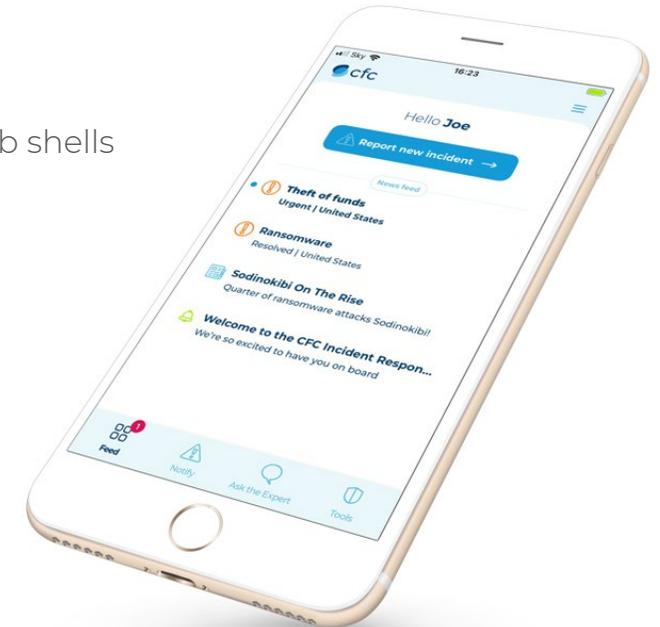
Intelligence



# Thwarted ransomware event

## Machinery manufacturing case study

- Cyber criminals exploited vulnerabilities in “ProxyLogon”
  - 4 vulnerabilities were identified enabling them access to third party servers
  - It took 2 months for Microsoft to issue a patch, which left a vast number of organisations exposed
- Threat actors identified that the insured had not implemented the patch and actioned the following
  - Downloaded a web shell enabling them to execute commands on the insured’s servers
  - Installed precursor malware
- CFC’s intelligence team performed a scan of the insured’s internet presence and detected the web shells and malware on their systems.
  - Notified the insured immediately
  - Explained how to delete the malware and remove web shells



# Is a telemedicine consultation adequate to prescribe addictive substances?

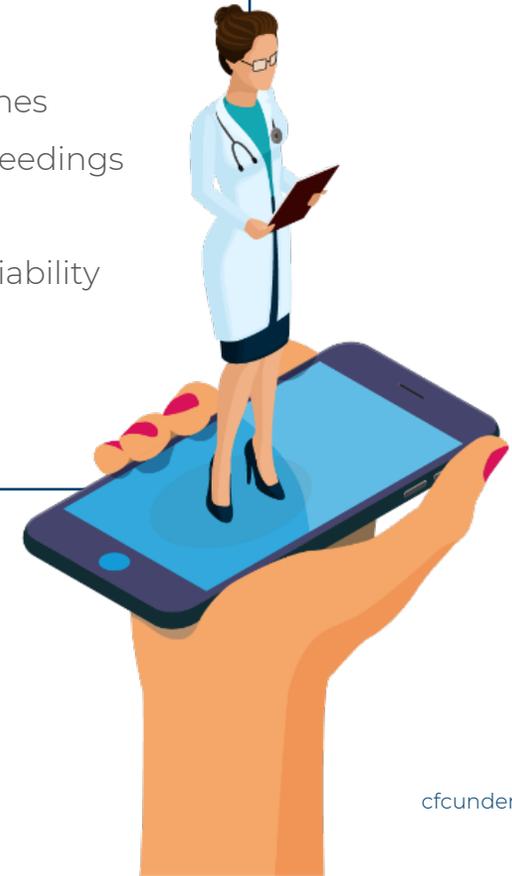
Telemedicine companies and online pharmacies are facing scrutiny regarding their prescribing practices

Short telemedicine appointments are increasingly being perceived as insufficient to diagnose mental health conditions

Allegations that employees are being pushed to prescribe substances with relative disregard for patient care and safety issues.

## Potential liabilities triggered:

- Bodily injury E&O
- Regulatory costs and fines
- Defense of license proceedings
- Employers' liability
- Directors' and officers' liability



# Common misconceptions

1

I don't need to purchase separate cover. I'm a sub-contractor for a large telemedicine company and they already carry insurance.



2

We are just a telemedicine platform. The providers listed on our website are responsible for and carry their own insurance.



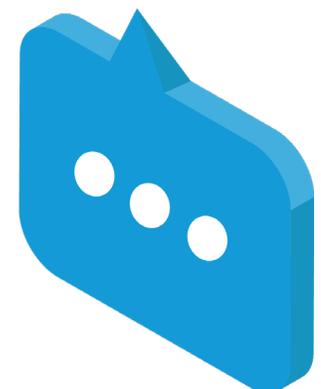
3

Intellectual property is never included in standard insurance policies



4

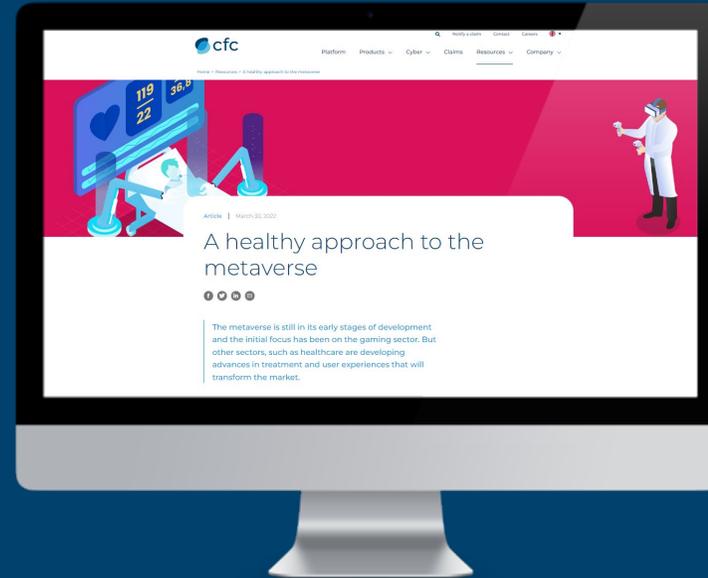
We already have cyber cover in place, why do we need to purchase your cyber insurance?



# Helpful resources

## Healthcare sales toolkit

- Recent risk
- Myth busters
- Convo starters
- Policy comparison
- Is eHealth right for my business?
- Intro to digital health



More articles  
here!

[www.cfcunderwriting.com/resources/?topic=healthcare](http://www.cfcunderwriting.com/resources/?topic=healthcare)

# Questions?

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