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# The Wild West of AI & Cyber Insurance

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# Introduction

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- Attorney by training
- 14 years of specialization in Cyber and Tech E&O
- Assist clients with strategic and enterprise risk management and non-insurance risks




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# Agenda

- Cyber market overview
- What is AI risk and where does the exposure come from
- AI and insurance examples
- How is AI being treated by insurance
- What to watch for going forward


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# Cyber Market Overview

- 225 U.S. insurers reported writing Cyber in 2025 *(NAIC)*
  - Includes primary, excess and endorsement
  - Doesn’t include global insurers, i.e., Lloyds of London

- Cyber market continues to be soft, but is stabilizing

- No standard and agreed upon terminology or definitions


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# What is AI risk?

The potential for AI systems to cause harm, disruption or catastrophic outcomes to individuals, organizations, and society.

Exposure a business takes on when it turns over tasks, decisions or judgement to an AI system.


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# AI Exposure Categories

| | | |
|---|---|---|
| Cyber Attacks – AI-enabled threat actors | AI is the target or culprit | Internal AI misuse |

Almost every insurance line is based on the fact that people or systems make errors.


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# AI and Cyber and Professional Liability

- Cyber policies are mostly silent on AI
- Cyber policies generally don’t look at the source of what triggered the damage/negligence – only that it was triggered
- Carriers are starting to add AI endorsements – up until this point it has been to clarify affirmative coverage more than limiting coverage
- London has indicated 2027 will bring AI limitations
- AI regulatory risk is not clearly covered

- Very few Professional Liability carriers are attaching AI exclusions


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# AI Examples

- Data privacy – trade secrets shared on a non-approved AI tool
  - PII sent to shadow AI is a privacy breach and covered by Cyber
- Errors & Omissions – AI hallucinations in legal cases
  - Impossible to separate AI and human error – this is like covered by Professional Liability policy, not Cyber
- Property Damage – AI-assisted drawing contributes to a structural failure
  - There is not a “breach” trigger so probably not Cyber – look to Professional Liability and/or General Liability
- Rogue Agents – agent deletes critical databases and backups
  - Attackers exploiting a misconfigured AI agent is a security failure and covered by Cyber


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# AI Examples

- Deep fake, phishing, vishing – employee is tricked into transferring money by AI generated video, voiceover, email
  - Covered as crime on Cyber
- Content creation – marketing tool creates content and infringes on a copyright or defames a competitor
  - Chatbot + AI-marketing tool liability falls under Media and covered by Cyber
  - Outage in an AI system used in a workflow is Business Interruption on Cyber
- Human resources – AI recruiting tools
  - AI hiring + HR tools fall under EPL, not Cyber
- Pricing & selection – AI used to set rental property prices
  - Falls under Professional Liability and D&O, not Cyber


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# Underwriting considerations for those creating AI solutions

- Choice of AI vendor matters, especially when critical infrastructure – Anthropic is considered top of safety rankings
- Guardrail usage such as “LLM firewalls” – filters malicious prompts and PII output
- Evaluation of the AI solution before launch to predetermined levels and ongoing monitoring of the AI solutions performance is the gold standard
- What does it do? Facial recognition? Policing activities?


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# AI and General Liability Insurance

- Insurance Services Office (ISO) three new commercial general liability endorsements
  - CG 40 47— excludes coverage under Coverage A and Coverage B for bodily injury, property damage and personal and advertising injury arising out of generative AI
  - CG 40 48 – excludes coverage under Coverage B for personal and advertising injury arising out of generative AI
  - CG 35 08 – excludes coverage for bodily injury and property damage arising out of generative AI under the Products/Completed Operations Coverage Part


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# AI and Management Liability Insurance

- Starting to see exclusions on Management Liability
  - “AI Washing” – allegations a company misrepresented its AI capabilities, strategy, risk or market readiness
  - Eliminate defense and indemnity for board or C-suite accused of inadequate AI governance, controls, oversight
  - Eliminate coverage for AI-related government investigations for compliance with AI laws and disclosure requirements
  - Employment Practices Liability – HR tools


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# What to look for going forward

- Broad language – “any claim based on, arising out of, or attributable to the actual or alleged use, deployment, or development of AI”
- Is it limiting defense costs?
- Is it limiting AI regulatory actions? Investigation, defense, or indemnity
- Is the “clarification” actually limiting coverage?
- Is it requiring a compensating control, e.g., call back provision
- Is Cyber crime expanded to cover loss from “LLMjacking”?


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