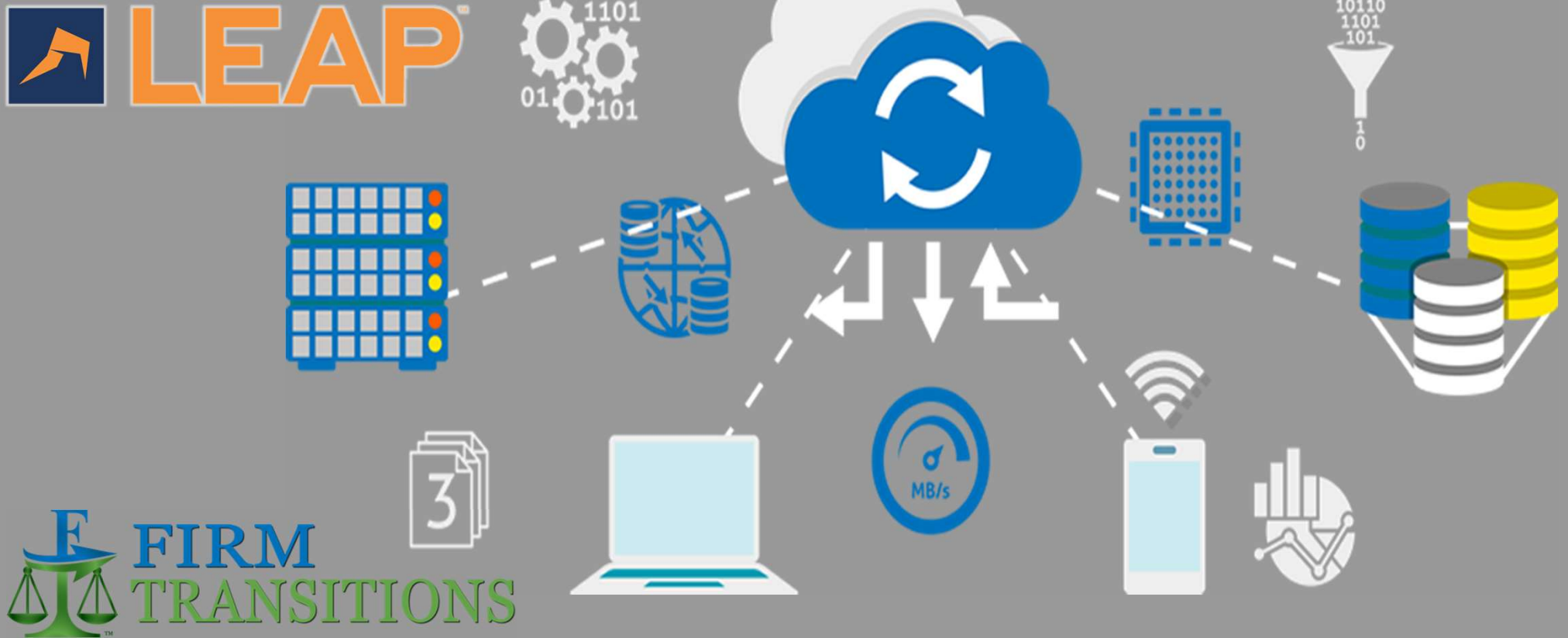


# Ethics and the Cloud: CLE





## **WHAT WE WILL COVER**

**What is the Cloud**

**Due Diligence Tips**

**Common Uses for the Cloud**

**HIPAA Compliance**

**Reasons to Utilize Cloud Technology**

**Reducing User Error**

**Exploring the Cloud**

**Questions & Answers**

**Cyber Attacks**

**Ethics Rules**



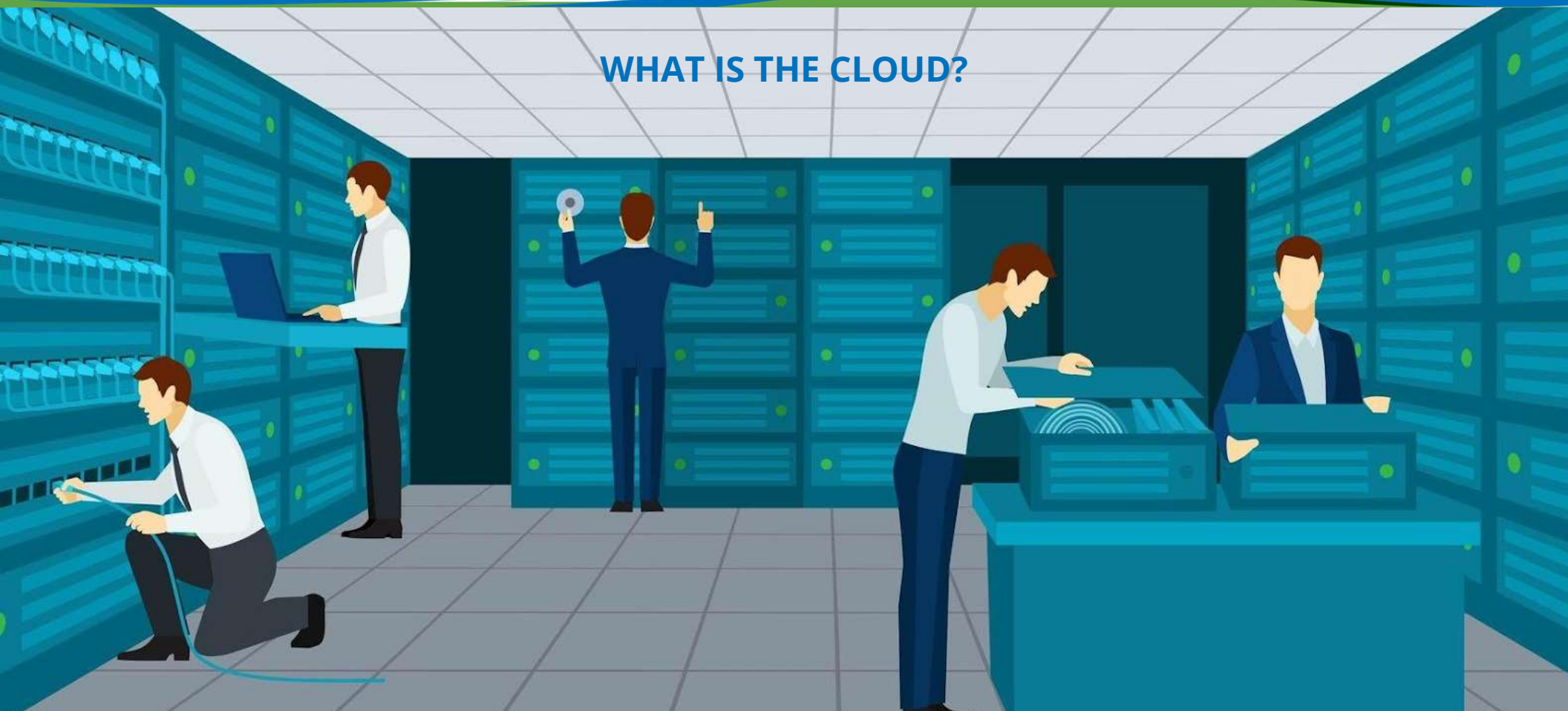


## WHAT IS THE CLOUD?





## WHAT IS THE CLOUD?





## COMMON USES FOR THE CLOUD

**Infrastructure as a Service (IaaS)**

**Software as a Service (SaaS)**

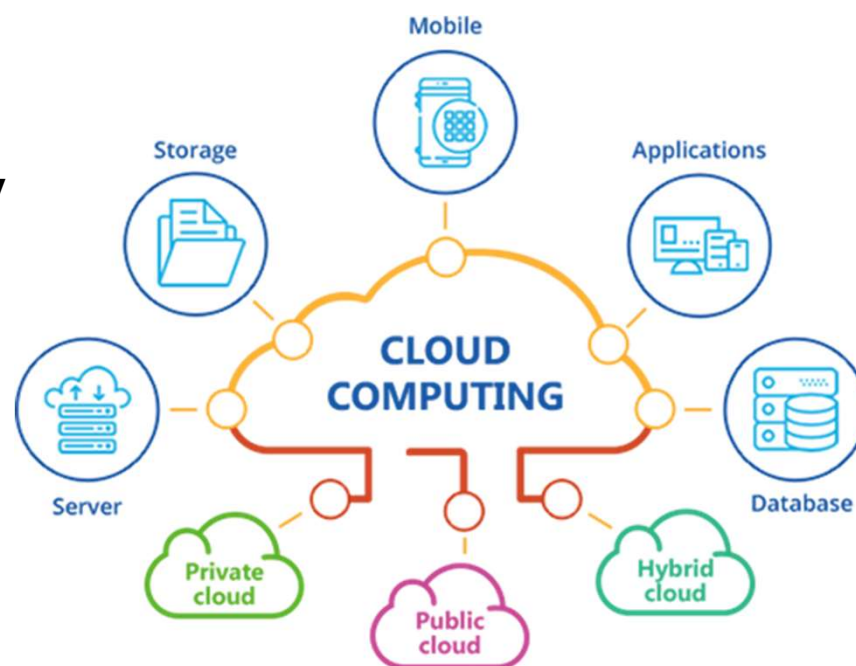
**Document Backup / Disaster Recovery**

**Communication**

**Testing and Development**

**File Storage**

**Communication**





## EXPLORING THE CLOUD

**Do you know if your firm is using a private or public cloud?**

**Why do you want your firm to use the cloud?**

**What concerns or issues do you have with the cloud?**





## IS CLOUD USAGE ETHICAL?

**Every Ethics Panel Agrees on 2 Key Points:**

- 1) Attorneys and Firms MAY Use the Cloud**
- 2) Attorneys and Firms MUST Take Reasonable Steps to Minimize Risk to Confidential Information and Client Files**





## REASONS TO UTILIZE THE CLOUD

**Cheaper to Rent than to Own**

**More Flexible; Scalable; Elastic**

**Potential for Enhanced Security**

**Ability to Work from Anywhere**

**Team Access**

**Share Large Files**





## FORMAL OPINION 95-498

**"...ensure that the service provider has in place, or will establish, reasonable procedures to protect the confidentiality of information to which it gains access, and moreover, that it fully understands its obligations in this regard.[A] lawyer might be well-advised to secure from the service provider in writing, along with or apart from any written contract for services that might exist, a written statement of the service provider's assurance of confidentiality."**



AMERICAN **BAR** ASSOCIATION



## **ABA RULE 1.1: COMPETENCE**

**A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.**



## **ABA RULE 1.4: COMMUNICATIONS**

- b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.**



## CYBER ATTACKS = DATA BREACH





## WHAT TO DO WHEN YOUR FIRM EXPERIENCES A CYBER ATTACK

**Dear Clients,**

**It is almost a daily occurrence that we read about cyber attacks in the news. Unfortunately, on or around January 25, 2015, our firm was the victim of a single cyber attack, by a relatively new variant of a Cryptolocker-type virus.**



**Law Firm: Ziprick & Cramer, LLP (Redlands, CA)**

Source: BloombergBusiness (March 19, 2015)



## **ABA RULE 1.6: CONFIDENTIALITY OF INFORMATION**

- a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).**

...

- c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.**



## **ABA RULE 5.3: RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE**

- a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;**
- b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and**



## **ABA RULE 5.3: RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE**

- c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:**
  - 1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or**
  - 2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but**



## DUE DILIGENCE TIPS





## **DUE DILIGENCE: SaaS**

**Analyze the Potential Vendor; 3<sup>rd</sup> Party Cloud Provider**

**Ensure You Have Unrestricted Access to Your Data**

**Ensure Easy Download of Data When Relationship is Ended**

**Data Encryption: Encryption in Transit (SSL) and at Rest**

**Password Protection Required | 2-Step Authentication Available**

**Monitor for Suspicious Activity**

**Data Back-Up and Retention**

**Network Security**



## **DUE DILIGENCE: LOCATION**

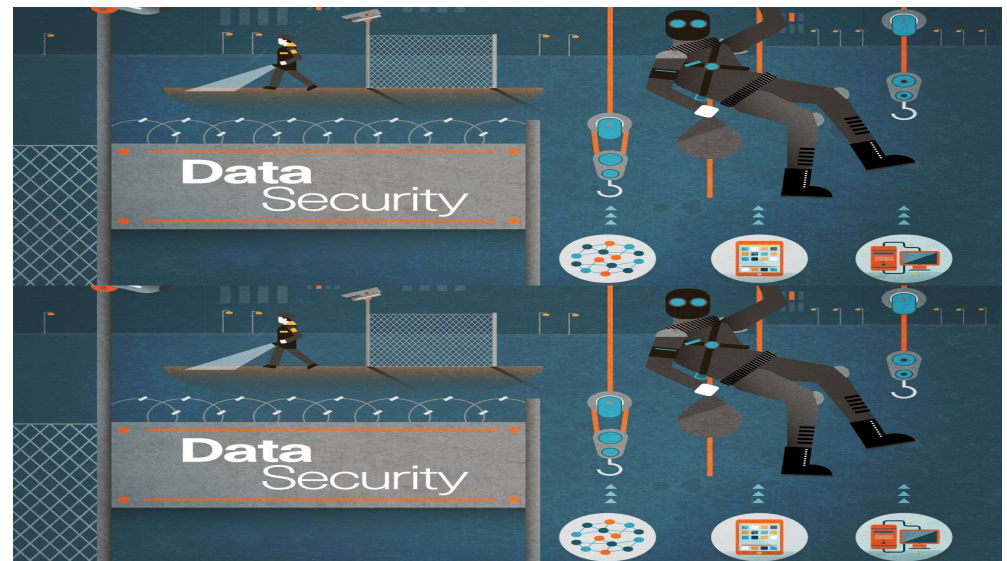
**Uninterruptible, Redundant Power**

**Fire Detection and Suppression**

**Building Access and Security**

**Cooling System**

**System Monitoring**





## **HIPAA COMPLIANCE**

**09/23/2013: Final Rule Created & Affects Some Attorneys**

**Understand How it Affects PHI**

**Understand the Types of Entities it Governs**

**Know Your Clients: Are You a Business Associate?**

**How it Affects You**

**Ensure Cloud Providers are HIPAA Compliant**

**Get a Signed BAA with Cloud Provider**

**HIPAA Covers Both Processes and Technology**

**More – Whole Other CLE**



## **REDUCE USER ERROR**

**95%** of All Security Incidents Involve User Error

(Source: IBM's "2014 Cyber Security Intelligence Index")

### **Steps to Reduce Human Error**

**Use Complex Passwords**

**Use Different Passwords for Various Sites**

**Change Passwords on a Regular Basis**

**Look at Sender's Actual Email Address – Not Just Their Name**

**Do Not Open Attachments or Links Unless You TRUST Sender**

**Do Not Use Commercially Installed Antivirus & Spyware**



## **WHAT I LIKE ABOUT LEAP**

**Utilize Amazon Web Services (AWS) Platform**

**Security is a Priority: SOC 2 Type 1 Certification in 2023**

**Data Encryption During Transfer and at Rest**

**Multi-Server Infrastructure to Maximize Up-Time**

**Microsoft Outlook Feel for Quick Learning Curve**

**Secure Document Creation and Sharing**

**Integrations with Microsoft 365, QuickBooks & Xero**

**Time Tracking Software Functionality on Desktop Specifically**



