Cyber-Secure Attorneys: Ethical obligations, Ambiguities, & Practical Considerations

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PRELIMINARY NOTES

- 1. Some of the Web sites that I cite in this presentation may require free registration, but most do not. I do not think any have a paywall, but no warranties.
- 2. Unless otherwise noted, all emphases within quoted excerpts are added.
- 3. Beware of root rot!

Cyber Secure Attorneys

DISTINGUISH ETHICS OBLIGATIONS FROM OTHERS

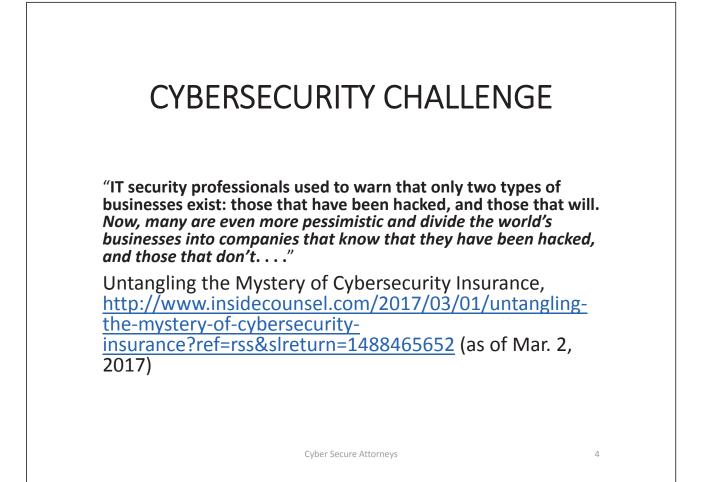
Distinguish between ethics obligations relating to cybersecurity under Tex. Disc. R. Prof. Con. (the subject of this presentation) and other obligations to provide cybersecurity:

- 1. Contract: Special provisions in retainer agreements and sometimes in law office policies.
- 2. Tort: Due care required to avoid malpractice liability.
- Regulatory: Depending on jurisdiction (e.g., if you are an associate for health care provider or represent financial advisers). See Sedona Conference Data Privacy Primer Jan. 2017 Public Comment Version, https://thesedonaconference.org/download-pub/4983; Sedona Conference Commentary on Privacy and Info Security Nov. 2015, https://thesedonaconference.org/download-pub/4786 (both are free PDF downloads, registration required; both also discuss ABA Model Rules)

4. Other state ethics rules to extent that they may apply

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FUNCTIONAL ENVIRONMENTS

- Email
- Texting
- Mobile devices including employee personal devices
- Web Sites & Social Media Sites
- Servers
- Cloud
- Files (embedded metadata, changes, annotations, drafts)
- Desk Top & Auxiliary Hard Drives, Disks, Thumb Drives, etc.
- Peripherals (printers, voice mail)
- PRINTOUTS!
- CLIENTS', CO-COUNSELS' & EXPERTS' PLATFORMS

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Title search: Cyber-Secure Attorneys: Ethical Obligations, Ambiguities, and Practical Considerations

Also available as part of the eCourse Land Use 2017: Ethics of Negotiation and Cybersecurity

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