



Trump administration has 'every right' to 'manage' information about his COVID: ex-Reagan lawyer

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Markets reacting to president Trump's positive COVID-19 diagnosis will need to settle on the reality that full information about the commander-in-chief's condition may remain publicly inaccessible, because, like all Americans, he cannot be compelled to disclose his health information.

On Friday morning, White House chief of staff Mark Meadows told reporters that the president was experiencing "mild" symptoms of the virus. The update followed a tweet from the president early Friday morning that he and first lady, Melania Trump, had tested positive.

Yahoo Finance's Alexis Christoforous and Brian Sozzi discuss President Trump's COVID-19 recovery with Yahoo Medical Contributor, Dr. Dara Kass.

"They're going to manage this information and they have every right to do so," Roger Pilon, founding director emeritus for Cato Institute's Robert A. Levy Center for Constitutional Studies, told Yahoo Finance on Friday.

The practice would not be not so different from previous administrations under similar circumstances, said Pilon, who held five senior positions with the Reagan administration, including with the Department of Justice.

President Franklin D. Roosevelt kept tight secrecy over the severity of his polio condition while in office. And President Dwight Eisenhower concealed following a heart attack his cardiologist's recommendation that he not seek reelection. Serious health conditions suffered by Presidents John F. Kennedy, Woodrow Wilson, and Ronald Reagan while in office were also kept from public disclosure.

"One shouldn't be too sinister about the idea that the White House will have an interest in controlling the information it puts out. It always does. After all, this is politics," Pilon said.

The president's right to disclose or withhold his health information comes from privacy protected under common law, and under the Health Insurance Portability and Accountability Act (HIPAA), enacted in 1996 during President Bill Clinton's administration. The law was later amended to define "protected health information" and to safeguard its use by certain entities. In general, healthcare providers are prohibited from sharing an individual's health information without the individual's consent.

Pilon expects the president, like his predecessors, will use his right to disclose or keep private his prognosis and condition to the extent that he can, and to the extent that it is politically expedient,

including how those decisions could impact the economy and markets, as unemployment and jobs data leading into the election show Americans struggling to stay employed.

‘Those economies were not impacted by the news’

Some investors say markets will price in a worst case scenario flowing from Trump’s positive COVID-19 diagnosis. Yet how investors define “worst case scenario” can differ. Still, questions remain about whether the American public will be given enough information about the president’s health to calculate whether any particular scenario is playing out.

“We’ve seen the UK, Brazil, and others had their heads of state test positive for COVID. Those economies were not impacted by the news,” James McDonald, Hercules Investments CEO, told Yahoo Finance’s “The First Trade.” “I don’t suspect it will change our economic forecast, however it will have a major impact on the sentiment of the electorate.”

No presidential candidate of a major party has died or withdrawn before a presidential election, and no president-elect has died before taking office, McDonald pointed out.

“As somber as the statistics are we have to play the odds for that,” McDonald said.

The president’s diagnosis adds another level of economic uncertainty going into election day, Kevin Mahn, CIO of wealth management firm Hennion & Walsh, told Yahoo Finance’s “On The Move” on Friday. That’s on top of anticipated difficulties in quickly determining the outcome of the election and whether there will be another stimulus bill passed or an available vaccine, beforehand, he noted.

“That’s a lot of uncertainty and creates volatility in the days and months ahead,” Mahn said. He said how the president reacts to the illness could translate to a boost in support if he’s able to bounce back, as Reagan did after he was shot in an assassination attempt. “Odds would favor [Trump] beating this, and if he does, again with good humor, it could ironically be a plus.”

An analyst from TD securities expressed a similar possibility in a note stating, “While one could argue that the news is an unequivocal positive for Biden, we don’t think it is so straightforward. Other world leaders such as [UK Prime Minister Boris] Johnson and [Brazilian President Jair] Bolsonaro got a significant boost in their approval ratings after they got COVID.”

Boston University School of Public Health dean Sandro Galea has attributed the historically tight secrecy around a president’s health to a demand by the public that leaders achieve an impossible health standard. Galea told Bloomberg in 2018 the standard “doesn’t give them the latitude to disclose.”

On Friday, Galea told Yahoo Finance, “I think given his position that there is a real responsibility to disclose insofar as it affects his capacity to execute the duties of his office. But beyond that, I think, ultimately, it is an issue of health privacy which extends to the president as much as to anybody.”

In the event that president Trump could not carry on as the Republican party’s candidate, his replacement would be determined by the vote of members of the Republican National Committee (RNC).

“What makes this situation unique is that it occurred literally a month before the election,” Pilon said.

