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Presidents get sick and die. What happens next hasn't always been clear

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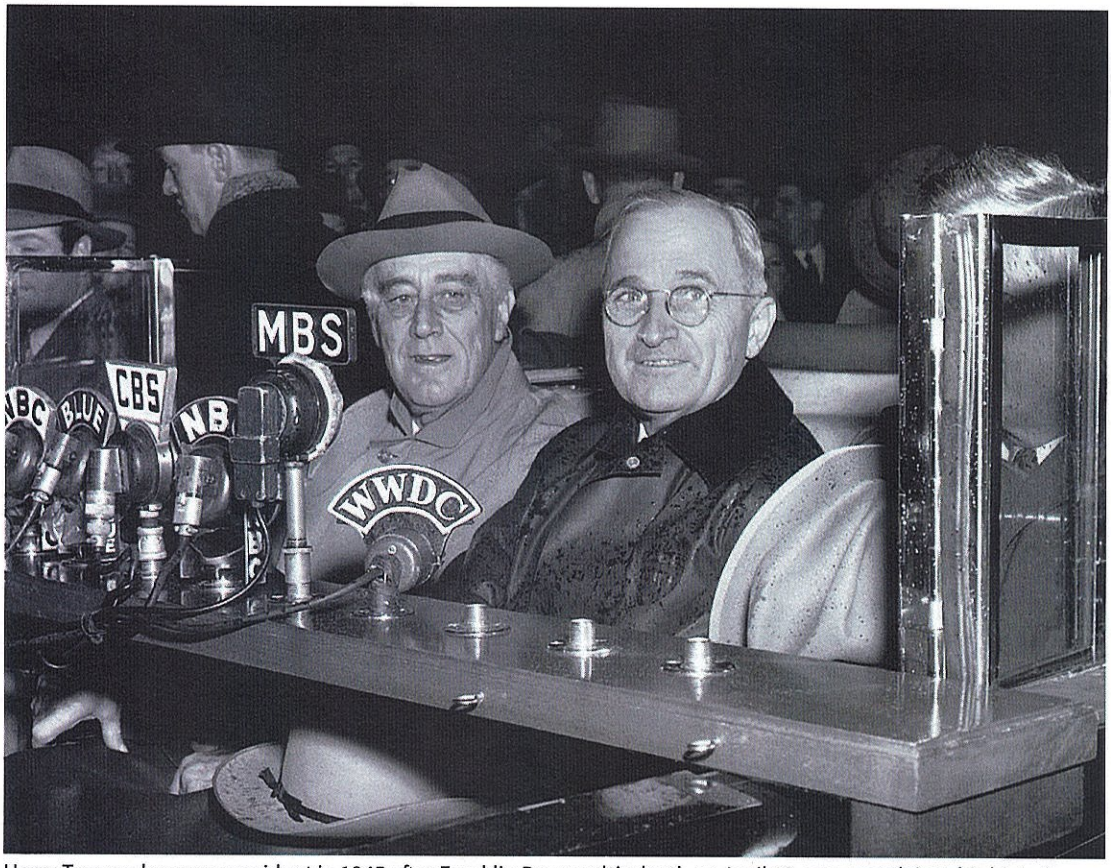

Harry Truman became president in 1945 after Franklin Roosevelt's death on April 12, one month into his historic fourth term. Photo by Getty Images/Bettmann/Contributor

On July 18, 1947, President Harry Truman signed the Presidential Succession Act, a law designed to clarify the order of succession upon the death of a sitting president and/or vice president. At the time, the critical process of presidential succession was an issue left somewhat unsettled by the Founding Fathers when they wrote and ratified the Constitution in the late 18th century.

To be sure, in Article II, Section 1, Clause 6, the Constitution describes the legal transfer of presidential power to the vice president if the former resigns or dies while in office. But this guiding document does little to describe what happens if the president becomes seriously ill, or who has the legal authority to determine if a particular illness or condition is severe enough to prevent the president from fulfilling his or her job. One reason this issue might have been left unresolved was the state of medicine in the late 18th century; unlike today, people tended to die rather quickly of the most serious illness.

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In 1791, the first U.S. Congress pondered what would happen if both the offices of president and vice president were left unfilled at the same time and several congressmen urged that the secretary of state be next in line. There was a festering political sore beneath this prescription: The secretary of state at the time was Thomas Jefferson, an ardent anti-Federalist who had many Federalist opponents in the Congress.

The following year, in 1792, the Second U.S. Congress passed a law stating that in the event both the president and the

vice-president were dead or disabled, first the Senate president pro tempore and then the speaker of the House would become the acting president until either the disability that prevented the sitting president or vice president from serving was resolved or, in the event of their deaths, a new election could be held.

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Nevertheless, presidential succession remained a thorny issue throughout the 19th century and beyond.

In April of 1841, for example, William Henry Harrison died one month after beginning his presidency. His vice president, John Tyler, unilaterally insisted on taking the oath of president — as opposed to "acting president" as many of his colleagues suggested. Matters became complicated again when Abraham Lincoln was murdered in 1865. One of the issues debated in the aftermath of this tragedy was who should be third in line, either the president pro tempore of the Senate (the most senior, and often the oldest, senator in the chamber) or the secretary of state (an appointed rather than an elected official, but the most senior member of the presidential administration).

In 1866, it was agreed that the secretary of state, followed by cabinet officers in order of the tenure of their departments, would succeed the vacancies. But a special election was not yet required by law. The acting president would serve until the next presidential election was judged to be completed by the Electoral College. That said, there was still congressional hand-wringing when Andrew Johnson was impeached, but not removed, in 1868; when James Garfield was shot and left dying for months in 1881; and again, in 1886, when Grover Cleveland and members of Congress urged changes in the succession process after Cleveland's vice president Thomas Hendricks died in office. When William McKinley was assassinated in 1901, Teddy Roosevelt rose from vice president to president, but served the rest of that term without the benefit of a vice president.

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Nearly half a century later, Harry Truman became president in 1945 after Franklin Roosevelt's death on April 12, one month into his historic fourth term. Once sworn in, Truman lobbied for a return to the succession delineated in the 1792 act, with one key distinction. The speaker of the House would be third in line as acting president, followed by the president pro tempore of the Senate, and then cabinet officers based on the date their department was created (today, the secretary of state remains the most senior and the secretary of homeland security, a position which was created in 2002, is the most junior).

Some have argued that Truman wanted these changes because of his close relationship with then speaker of the House, Sam Rayburn. Truman instead claimed that because the speaker was the leader of "the elected representatives of the people," he or she should be next to ascend to the vacancy of vice president or president, if the situation arose. Just as important, Truman was acutely aware of the fragility of presidential health and learned first hand the importance of having an unambiguous plan for presidential succession in place.

In 1967, the 25th Amendment of the Constitution was ratified and its four sections further address some (but not all) of the succession issues President Truman raised. The first two sections of the 25th Amendment deal with how presidential power is assumed in the event of a president's death or resignation and allows the president to nominate a vice president when that office becomes vacant. The third section delineates a president's voluntary resignation of power. The fourth section discusses the involuntary removal of a president, when he or she is deemed unable to perform the job, by

members of the cabinet and of Congress — but this has never been acted upon in American history.

Ethicists and presidential historians insist there remain serious problems in terms of presidential succession, both in the 25th Amendment and in the 1947 Succession Act, particularly in terms of defining the disabilities, physical, or mental illnesses that might prevent the president or vice-president from fulfilling his or her duties. (Several years ago, I wrote about the problems surrounding the 25th Amendment in the Journal of the American Medical Association, June 4, 2008).

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To make matters worse, throughout the 20th century, candidates and elected officials have not always been fully forthcoming about their medical histories because of concerns that such disclosures might cost them votes or political support. Woodrow Wilson's concealment of his debilitating stroke and the role his wife, Edith Galt Wilson, played in both the "cover-up" and by secretly acting as president; FDR's poliomyelitis and lower body paralysis and, later, his congestive heart failure, malignant hypertension, and related disabilities; Dwight D. Eisenhower's secrecy over his 1955 heart attack, 1956 intestinal obstruction, and 1957 stroke; John F. Kennedy's multiple health problems including Addison's disease and the many medications he took while negotiating sensitive geopolitical matters; Richard Nixon's mental health during the final months of his presidency; and Ronald Reagan's gunshot wounds, cancer surgeries, and the extent of his Alzheimer's disease are just a few examples of serious disabilities that can affect our chief executives. How have these disabilities affected world events? We will never quite know the answer to that query.

Today, poll after poll demonstrates that the American people want to know about the health of their elected officials, and especially their president. And while private citizens are certainly entitled to privacy with respect to their health, matters become decidedly different when running for or holding the highest office in the land. Some medical experts have suggested that the president undergo an annual physical and mental health examination (including evaluations for depression and Alzheimer's disease), which are made public upon completion in real time.

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The obvious reality is that we are all too human, we all get sick, and we are all going to die. No president — no matter how powerful, beloved, or despised — is immune to the slings and arrows of human disease. Fortunately, we live in an era when so many medical and mental health conditions can be successfully treated and individuals live healthy, normal lives despite having this or that illness. That said, this physician insists that the American voter deserves to know the medical and mental health histories of our nation's chief magistrate, from the moment they announce their candidacy to their last day in office.

And just as all voters need access to this critical health information as they execute the profound civic duty of electing the next president of the United States, every president should be able to rest easier with the knowledge that there exists a clear path of succession in place, in the event of illness, disability or death. As President Harry Truman once opined about presidential health and disability, "We ought not go on trusting to luck to see us through."

> **The Twenty-Fifth Amendment to the U.S. Constitution**
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> **Section 1.** In case of the removal of the president from office or of his death or resignation, the vice president shall

become president.

Section 2. Whenever there is a vacancy in the office of the vice president, the president shall nominate a vice president who shall take office on confirmation by a majority vote of both houses of Congress.

Section 3. Whenever the president transmits to the president pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the vice president as acting president.

Section 4. Whenever the vice president and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide transmit to the president pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the president is unable to discharge the powers and duties of his office, the vice president shall immediately assume the powers and duties of the office as acting president.

Thereafter, when the president transmits to the president pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the vice president and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within 4 days to the president pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the president is unable to discharge the powers and duties of his office. Thereupon, Congress shall decide the issue, assembling within 48 hours for that purpose if not in session. If the Congress within 21 days after receipt of the latter written declaration, or, if Congress is not in session within 21 days after Congress is required to assemble, determines by two-thirds vote of both houses that the president is unable to discharge the powers and duties of his office, the vice president shall continue to discharge the same as acting president; otherwise, the president shall resume the powers and duties of his office.

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