

The Third Opinion

## Steve Jobs And Your Own Privacy As An Executive

Saj-nicole Joni, 02.02.09, 04:10 PM EST



**The days of discretion about CEOs' health problems are ending.**

In a letter dated Jan. 5, 2009, Steve Jobs, chief executive officer of **Apple**, addressed the "Apple community" about his health:

"As many of you know, I have been losing weight throughout 2008. The reason has been a mystery to me and my doctors. A few weeks ago, I decided that getting to the root cause of this and reversing it needed to become my No. 1 priority.

"Fortunately, after further testing, my doctors think they have found the cause—a hormone imbalance that has been 'robbing' me of the proteins my body needs to be healthy. Sophisticated blood tests have confirmed this diagnosis.

"The remedy for this nutritional problem is relatively simple and straightforward, and I've already begun treatment."

Nine days later, he announced that he was taking a six-month medical leave. This decision surprised the Apple (nasdaq: [AAPL - news - people](#)) community, the investment community and the [Securities and Exchange Commission](#), which promptly launched an investigation. Apple had been attributing Jobs' increasingly obvious weight loss over most of 2008 to a variety of causes, including "a common bug" and "a hormonal imbalance."

Have Jobs—and Apple—been misleading investors? Do investors have a right to know about his health, or is that a matter between him and his doctors? Where does the right to privacy about personal health matters intersect with the public's right to know about material news concerning a company and its executives?

We are living in a new era of transparency and openness. One of President Obama's first acts as president was to sign an executive order requiring significantly more transparency and access to information in the federal government. Like it or not, the many top executives and directors I have spoken with in the last few weeks believe the demand for greater transparency will reach them as well. Moreover, the reality of today's 24/7 news cycle means that it is increasingly difficult, impractical and costly to keep significant secrets from the public for long.

How should we think about the issue of privacy and transparency when it's about our own health? On the one hand, health issues are nothing if not personal. Determining the truth of your health at certain times can be surprisingly elusive. Medical conditions are highly unpredictable. A serious

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diagnosis can evaporate with an unexpected cure, and a seemingly benign condition can quickly and distressingly take a turn for the worse. A diagnosis of cancer does not necessarily mean impairment and loss—ever, or for many years. But it can mean a swift death. The doctors' best predictions are often wrong.

On the other hand, the abilities of the top executives in our companies—the ones listed in the companies' annual reports—are material to the companies' performance. Otherwise, why are these people in these positions? Top executives hold the reins of their companies in their hands. As such, they are stewards of a trust for the time that they have their top jobs, much the same as a President of the United States is entrusted with the stewardship of the nation. We have come to expect to be notified of material questions about a President's health, because the stakes are so high. Should we not expect the same from our top executives?

The experience at Apple shows how impossible it is, in the end, to keep private the health of a charismatic CEO strongly identified with his company. But charismatic or not, every CEO and C-Suite executive is vulnerable to similar circumstances, I believe.

As a starting point, we need to look long and hard at succession planning, and not only for normal circumstances of retirement or new opportunities but also to be able to move forward in case of health crises. Organizations need plans that address not only job replacement but also media concerns, privacy and the rigors of materiality. It's too late if a board doesn't have this discussion until someone is facing a critical health issue. Boards of directors and top executives need to consider it now, engaging in frank and open dialogue, so that contingencies such as health are planned for in light of the new realities of a transparent era.

Current law doesn't permit a company to require an employee, even the CEO, to give up his or her rights to medical privacy as a condition of employment. But an executive can voluntarily give up these rights. I believe you should give this careful consideration long before you take a top job.

As you progress to the top ranks, you must ask yourself (and your loved ones) what you are willing to sacrifice in order to fully meet the responsibilities of high office—with your stakeholders in mind. In the new era of transparency, it is less possible to avoid the collision between public and private rights. I predict that if you want to lead at the top, these issues will increasingly be decided in favor of the greater good of those you serve.

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