

KHN's 'What the Health?'

Episode Title: The Politics of Vaccine Mandates

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Julie Rovner: Hello, and welcome back to KHN's "What the Health." I'm Julie Rovner, chief Washington correspondent for Kaiser Health News. I'm joined by some of the best and smartest health reporters in Washington. We're taping this week on Thursday, Oct. 14, at 10 a.m. As always, news happens fast and things might have changed by the time you hear this. So, here we go. Today, we are joined via videoconference by Alice Miranda Ollstein of Politico.

Alice Miranda Ollstein: Good morning.

Rovner: Jen Haberkorn of the Los Angeles Times.

Jen Haberkorn: Hi, Julie.

Rovner: And Mary Ellen McIntire of CQ Roll Call.

Mary Ellen McIntire: Hi, everyone.

Rovner: Later in this episode, we will play my interview with Beth Macy, author of the New York Times bestseller "Dopesick," which premiered this week on Hulu as a limited series. Beth and showrunner Danny Strong are also part of a panel discussion that KHN will be posting online early next week. But first, this week's news.

We will start on Capitol Hill, because we have three Capitol Hill reporters this week. First, Congress has successfully kicked both the annual spending bills and the debt ceiling deadlines to December, which leaves them the interim to sort out the twin infrastructure slash reconciliation slash social spending bills, where centrists and progressive Democrats are still struggling to reach consensus. Republicans, not playing in this particular fight. Early in the week, House Speaker Nancy Pelosi sent her members a letter suggesting that Democrats might want to do fewer things on their social spending list. Later in the week, she said maybe they want to do more things, but for a shorter period of time. Where are they, exactly, as of Thursday morning?

Ollstein: What we're hearing now is that they are planning to do both. They're planning to cut back ...

Rovner: You can't do both!

Ollstein: Well, cut back the duration of some programs and cut others entirely, which is both. And there was a very telling gaggle with [Rep. John] Yarmuth, who's now completely unleashed now that he's retiring.

Rovner: He's the House Budget Committee chairman and has a major say in what ends up in this package.

Ollstein: Exactly. He was especially candid with reporters when they came back for one vote this week, and he was saying that leadership said, OK, we're going to make tough choices, do fewer programs, but do them right. And then they said, OK, well, what do we cut? And nobody could agree. So, we're back to where we started. They seem pretty far apart still. I would be extremely surprised if they made their deadline of the end of the month. I think this is going to get punted again.

Rovner: In theory they have until about Thanksgiving. But then, of course, they have to resolve their debt ceiling and appropriations bills that they kicked off to December so they could do this.

Ollstein: Right. They gave themselves a new arbitrary deadline at the end of the month just to light a fire under themselves, but it doesn't seem like that's doing the trick.

Rovner: So, what's on the chopping block?

Haberkorn: Everything, basically. Everything is vulnerable right now. I mean, I think there's priorities that are emerging. The child tax credit, the programs that deal with kids really seem to be the priority. And I think after that is climate. Democrats feel like they cannot not address climate. And then I think the third category is going to be the health programs. And as we know, there's a lot of health programs competing for few dollars. Those dollars are probably going to be scaled down when they have to scale down their prescription drug proposal. And so it's kind of this death match between Medicare, Medicaid and ACA [Affordable Care Act] subsidies, and there's different alliances in the Capitol. And which of those programs should be No. 1? And Alice had a really great story today on progressives really going at it on preserving the Medicare expansion. I don't know that we can say at this point what's going to win. I don't think they know. And I think at some point Democrats are going to be struggling with this throughout the bill. But I think particularly on the health provisions, because Democrats care so much about the health programs. President Biden or Nancy Pelosi are going to have to be the ones to defend a decision to cut one of these things, because you're going to have a huge constituency that's really upset, and with the very slim margins they have, you're not going to be able to come to consensus. You're going to need political capital to anger that group of people.

Rovner: I feel like the thing that always gets cut is long-term care. And indeed, I see that the home care people seem to be looking a little bit sad already, preemptively. I mean, long-term care is always ... it's what ended up getting jettisoned from the Affordable Care Act. It's what ended up getting jettisoned, you know, years ago. It's always the one that seems to be not the most, you know ... everybody wants to do it until you have to cut something, and then it's what they cut. Is that about to happen again?

McIntire: It looks possible. You know, President Biden had initially asked for, I think, \$400 billion and then the House bill included less than half of that at \$190 billion. There was some talk that the Senate could push that back up. And you have Sen. [Bob] Casey and Sen. [Ron] Wyden really pushing for a long-term care expansion that is, you know, solid and sizable. But it is something that advocates who are pushing really hard for this do see as vulnerable and do see as, you know, potentially being cut further. And I think that that's one of those things that ... it is a program that has some very strong advocates and members and outside organizations who are really pushing for it. It doesn't quite get the same level of attention as, you know, the ACA subsidies and Medicare expansion, which is really big, although it is, you know, an equally important topic, and with the growing number of aging people in the country who are going to need some sort of long-term care, it is only getting more important.

Rovner: It's always the thing we can come back to later.

Ollstein: Right.

Rovner: I wrote my first long-term care story in 1987!

Ollstein: What members keep saying is that, you know, nobody thinks about long-term care until their grandma or their dad needs it. And then it's all they can think about. And the waitlist for care is more than 800,000 people long. So, I reported a few weeks ago that they originally aimed for this \$400 billion package, which would clear the waitlist, raise wages for workers and make a bunch of other improvements. Now they are sort of hoping for the bare minimum of enough to clear the waitlist, which would just be around \$200 billion, but even that they might not be able to get at this point.

Rovner: Well, as we have discussed earlier, how much Democrats will be able to spend depends largely on two things: what Sens. Joe Manchin and Kyrsten Sinema will agree to, and how much they can raise from cutting prescription drug costs. My colleagues over the firewall at KFF have a new poll out this week suggesting that allowing Medicare to negotiate drug prices is really popular even with Republicans, and the drug industry is really unhappy about that. The drug industry really only needs a few votes to block this. In the end, are they going to get them? Are they going to sort of get their way? Or, I mean, at some point will the drug industry get rolled by the need for Democratic unity?

Haberkorn: I think there's going to be some prescription drug policy in this plan. I don't think it's going to be HR 3, which is kind of the Democrats' gold standard. It already passed the House. It's the most ambitious proposal, raises the most money. I think it's going to be a watered-down version of that bill, but I think it would be very hard for Nancy Pelosi to end what many people assume is her last major legislative push as speaker and a member of Congress to leave prescription drugs off the table. I mean, the Democrats' campaign slogan in 2006 was six programs, and one of them was prescription drugs. And to leave that untouched just seems like a really wasted opportunity. And I don't see Pelosi allowing that to happen.

Ollstein: The point you make, Julie, is right. It's a very uneven power dynamic in that the people who are for prescription drug reform have to maintain unity across the entire Democratic caucus and convince every single person, at least in the Senate, and almost every single person in the House to back some proposal. Whereas the drug industry, who doesn't want any form of negotiation at all, just has to peel off a couple people, which so far they've been able to do. So I agree that something will get done. And I agree it will not be what most Democrats want, and it won't raise ...

Rovner: And most of the public!

Ollstein: Right. And it won't raise nearly as much money as they want and need to fund their other priorities.

Rovner: Mel, where do you see the drug debate going?

McIntire: I mean, I think I agree with what both Jen and Alice have said broadly in that there will be some sort of prescription drug pricing provisions in this package. It will not be HR 3. The members who have so far said they don't support HR 3, you know, have said that they are continuing that. I think this is something that is really, really frustrating to a lot of, especially House Democrats, the front liners who have really been pushing for months now to make sure, you know, going back to the spring that health

care and drug pricing is involved in this, you know. They point out very regularly that, you know, a lot of these members have previously voted for HR 3 and that it's passed the House twice. So I do think that this is, you know, a frustrating dynamic for a lot of members who ran on this issue and are really hoping for the most robust drug pricing provisions so they can go back and run on it again next year.

Rovner: Although, as we have seen in the past, voting for something as a message bill when you know it's not going to pass and voting for something when you have live ammunition is not the same thing. We've seen it on the Republican side; now we are seeing it on the Democratic side. Well, the Democrats will continue to argue about this for at least the next several weeks. And in new news this week, the FDA [Food and Drug Administration] has authorized its first e-cigarette product. The agency is careful to say that it has not formally approved Vuse, made by tobacco giant R.J. Reynolds, but rather has evaluated it and decided that it can help those who use other, more dangerous tobacco products potentially quit or at least reduce health risks. This is a really big turning point in the regulation of nicotine as a drug, right? FDA had not been able to sort of allow any of them to continue to be sold until now.

Ollstein: It's been this struggle for years now between the industry's argument that vapes are a great way to help people transition off of traditional cigarettes and that they are better than traditional cigarettes for your health versus advocates and public health folks who have been sounding the alarm that these vapes have been marketed to young people that weren't smoking traditional cigarettes before and are now hooked. And so this is a struggle that's going on. The agency is kind of trying to walk a line by approving this one, but cracking down on a lot of the candy and fruit flavors that are very obviously marketed towards children and teens. So I think it's, yeah, a very difficult, narrow line that they're walking going forward. And also, you know, vapes and the technology are so new that we just don't have data on the long-term effects of them on folks' health. And so I think that is going to be an ongoing thing to monitor as well.

Rovner: I feel like this is a real test of sort of the whole concept of harm reduction, though. I mean, these are the same fights that we have about, you know, clean needles for people who are addicted to drugs. It's like, is it better to let people do bad things more safely? And it's a hard call. This is obviously, you know, Congress gave the FDA this power. So it's not like the FDA is, you know, trying to usurp something. This was something that Congress passed in legislation. I'm sort of fascinated by the balancing act that FDA is trying to do here, of course. And we have still, because I guess we're going to mention this every week, no commissioner nominated for the FDA. And now we're, I think, within a month, I think Janet Woodcock can only serve for another, I think it's less than 30 days, right? Until ... someone needs to be nominated in order for her to continue as acting commissioner. Any indication that anything is about to happen?

Ollstein: My poor co-workers, we keep getting, you know, hearing rumors that today is the day, today's the day. And then everyone runs around with their hair on fire and prepares pre-writes for all of the people we think it might be. And then it ends up not happening, so ... That's happened several times now. So I don't envy them on that beat, on the FDA beat.

Rovner: Yeah. Well, I keep hearing, you know, "It will be soon!" But they've been saying "soon" for the last month. So we will come back to that one too, unless anybody else has had some inside information on the potential FDA commissioner. No? All right. Let us turn to covid. Caseloads may be going down, at least in some of the most hard-hit parts of the country. But controversy is, if anything, getting worse. While we are still waiting for the Occupational Safety and Health Administration to formally propose President Biden's vaccine mandate for employers of more than 100 people, it's apparently at OMB,

meaning it should be forthcoming shortly. Texas Gov. Greg Abbott issued an executive order banning vaccine mandates for private businesses, along with a ban for government entities that he had issued earlier. How is a larger business in Texas supposed to cope with this? They're now caught in the middle between what the federal government is doing and what the state government is doing. That's going to end up in court. Yes?

McIntire: Almost certainly. It seems that this is headed for a lawsuit. And you know, that is probably part of what Gov. Abbott was hoping would happen. I think businesses are really faced with a challenge here of, you know, balancing these two orders and, you know, potentially choosing sides here. It does seem like some of the largest businesses are going at this point. The airlines that are based in Texas are siding with the federal government and their mandate and saying that they're going to continue their mandate. You know, some of these airlines have also already said that they have a large majority of their employees already vaccinated. So for some of the companies, including some of the Texas hospitals, that set vaccination mandates months ago, they're a little bit beyond this. This is more of a challenge for some of the companies that maybe weren't as far along in that process of getting their employees vaccinated. Trying to figure out, OK, what can we continue to require here? Or we are not going to continue to require this, and continuing to see how this plays out in the courts in the coming months.

Rovner: Yeah ... the airlines had done it prior to Biden doing it even. And I think we're at the point, I mean, the airlines have done, everybody who sort of does these mandates ... obviously, you have to give people lead time and it takes a while to become fully, you know, you have to wait to get fully vaccinated anyway. So the ones who did it first are now coming up against those deadlines. And I think United Airlines is one that did ... that, you know, out of — trying to remember what the entire, what the denominator of how many employees they have — but it's like 200 people who didn't get vaccinated out of, you know, tens of thousands.

Ollstein: It was over 99%.

McIntire: It was going to say it is like less than 1% that did not comply with their mandate.

Rovner: Yeah. I feel like this is, you know, I hesitate to say it's all politics, but it certainly pits Republican big-business supporters who largely support vaccine mandates to help get the economy back up and running against Republican libertarian types who oppose government intervention in most things. We talk a lot about how divided Democrats are. We just spent 15 minutes doing that. But Republicans aren't that much more united when it comes to this, right?

Ollstein: There is ideology and then there is just pure, you know, business considerations. And there's the risk of imposing a vaccine mandate and having even a small percentage of your workforce quit rather than comply and losing those folks. And if you're already operating on short staffing, that's a real risk. Of course, if your workforce doesn't have a vaccine mandate and a bunch of people get covid, that is a huge risk to your business as well. And so I think even ideology aside, what you think the role of government is, what kinds of things you think should be mandated, there is a tough business consideration on its own.

Rovner: But I do feel like someone pointed out that Gov. Abbott did this because he's got a primary challenger who's thoroughly against vaccine mandates. I mean, it's almost as if Abbott got pushed into doing this. Abbott, who's not, who's not been shy about, you know ... Gov. Abbott and Gov. [Ron] DeSantis in Florida who both apparently want to run for president and are trying to sort of be the most,

you know, populist as they can. This is what we're going to see among Republicans going towards 2024, right? Them trying, each trying to sort of out-libertarian the other?

Haberkorn: Absolutely. I mean, these ... opposition to the vaccine mandates has become the latest litmus test for Republicans. And to your point, it's popular with their base and ahead of '22, '24, I mean, the ... covid is not going away. So we're going to be continuing to deal with discussions of mandates, whether they're appropriate for businesses and for government. So it seems something easy for presidential contenders to latch on to.

Rovner: Yeah. In the meantime, the one way apparently people can get out of the vaccine mandates is if they have a religious exemption. Mel, I want you to do your extra credit now because I want the rest of us to talk about this.

McIntire: Yeah, I thought this was an interesting story in NPR this week, looking at how employers have to judge when an employee comes to them with a religious exemption for a vaccine. And you know, I think that obviously there have long been religious exemptions for vaccinations that might be required in a school or certain business settings, but the increased number of these that people probably have to deal with, I think some people that the reporter spoke to in this story, it kind of read to me like maybe they wouldn't have tried to get a religious exemption without this mandate and it becoming such a politicized thing, you know, possibly sparking more people to seek these out even if they aren't religiously opposed to this. So, I thought it was interesting and difficult. I hadn't thought about how difficult it would be for, you know, with the politicization of these vaccines for employers to judge, like how do you say, OK, well, like, how often are you in church? Because that's not something you're typically asking your employees. An interesting question as these become, you know, something that more people are looking at.

Rovner: Yeah, I've noticed, you know, very few religions actually oppose vaccines as a rule. There has been over the years issues among Catholics about vaccines that were developed using fetal tissue, although, in this case, not only has the pope said that this vaccine is OK — the Vatican has a vaccine mandate. So can Catholics really, you know, come and say, is this against my religion? The head of your religion doesn't think it's against your religion.

McIntire: I am Catholic and I'm vaccinated, so I have no answer for you.

Rovner: And, yes, I would not like to be an employer here, trying to judge whether somebody's religious exemption is legit or not. It is not an easy thing, and I think this is, as we see more vaccine mandates, I think we're going to see more of these. Well, meanwhile, much has changed for health workers since the start of the pandemic, when they were widely hailed as heroes. Now, health workers are scared to wear their scrubs or their uniforms out in public lest they be verbally or even physically accosted. In addition to the burnout from being asked to work essentially nonstop at life-threatening jobs for a year and a half, this can't possibly help what's turning into a serious shortage of health workers, right? Health care employment, long a source of reliable economic growth, is actually way down the last couple of months.

Haberkorn: Yeah, this seems like a huge problem that, again, is not going away because covid is not going to go away anytime soon. I'm not sure quite what the answer is. It's not something you can really legislate, to show compassion to health care workers. It should be something that we just do. It feels like as long as this is so politically divisive, it's going to be a big liability for health care workers. And again, I

don't really know what the answer is besides showing compassion, and maybe compassion from political leaders would turn down the politics around it a bit.

Ollstein: It's just also such a swing from a year ago, when people were leaning out of their windows to clap every day at a certain time for health care workers. And it's just wild to have the two sides of the coin, putting them up on a pedestal and then also villainizing them. Meanwhile, they're just asking for, you know, basic working conditions and safety on the job and whatnot. And we've also seen a spike in people leaving the health care workforce. We've seen a spike in labor strikes in the health care workforce recently. There's just a lot of turmoil at a time when they're needed more than ever.

McIntire: I think it will be interesting to see if hospitals and other physicians' offices, are they forced to sort of come up with more policies internally for trying to protect their workers? Obviously, this is not necessarily a time that you can be giving health care workers a lot of mental health days, necessarily, but what sort of policies are they setting up to try to protect their employees while they're on the job will be interesting to see if you see more hospitals trying to come up with those sorts of policies as well.

Rovner: I mean, there's already so many metal detectors and, you know, bulletproof glass and in, you know, emergency rooms. And I think we're, you know, we may be seeing that in more places, which is kind of sad. I mean, I remember ... when a hospital was just a safe place that you could walk into. That's obviously not been the case for some time. All right. Well, there is also more abortion news this week. When we last gathered, that Texas law barring most abortions had been temporarily blocked by a federal district court judge in a case brought by the Biden Justice Department. But, as we predicted, the 5th Circuit Court of Appeals has at least as of now reinstated it. What the heck is going on in Texas right now?

Ollstein: The abortion ban was blocked for just about 48 hours and then was reinstated as this bounces around the federal court system. And so we might get another decision later today from the 5th Circuit, whether or not to extend the stay on the lower court's injunction of the law. So, I mean, that's all convoluted. Basically, we'll get to know whether ...

Rovner: That was well said, though.

Ollstein: ... whether or not people will be able to access abortion after six weeks of pregnancy or not later today. This is, in all likelihood, going back to the Supreme Court, but the timing is uncertain. There are multiple lawsuits from the Biden administration and from the abortion clinics on the ground and lots of folks weighing in. So, that is to say, you know, we are sort of back where we were. The law is still in effect for now. People are not able to access abortion after six weeks unless they go out of state.

Rovner: We've been talking about this Mississippi case for a while that we expect the Supreme Court, that it will use this case that it will hear in December to overturn or ... otherwise significantly modify *Roe v. Wade*. But the Texas case might actually get there first, right?

Ollstein: Oh, it's possible. I mean, it can either come back on the shadow docket like it did the first time on a sort of emergency basis, or it can come back through the regular appeals process. We just don't know yet.

Haberkorn: I think it's going to be really interesting to see if this does come back to the Supreme Court quickly. You know, typically the Supreme Court does not accept a case until there's been a thorough

analysis by the lower court's discovery — you know, discussion of the facts. And we're not going to have that in this case if it goes to the court without going thoroughly through the lower courts first. And then you have this, at what point does this and the Mississippi case, does one surpass the other? And I think that's ... it's really going to shape how the public views this because you have the 15-week ban in Mississippi and the heartbeat ban, essentially a six-week ban, in Texas, which ... I would think the public has very different views on that. So any decision that comes out of that, I think, is going to be equally divisive.

Rovner: Yeah, that's a really good point because the public is, you know, obviously much more sympathetic to abortions at six weeks in pregnancy than at 15 weeks, which we know from every poll that's ever been done. In the meantime, there was already an abortion case at the Supreme Court this week, Alice. But that's not really about abortion, right?

Ollstein: It is and it isn't. So, this one kind of went under the radar, but it was about an abortion ban that Kentucky attempted to instate that's been blocked by lower courts since 2018. And basically, this is on a narrow technical question of whether the state's attorney general — so, they had a Democratic attorney general before and then a Republican won that seat, and the Republican wanted to defend the state's abortion law, even though the Democratic governor didn't want to after two ...

Rovner: The Democratic governor who had been the Democratic attorney general.

Ollstein: Right, exactly. And there were already two lower-court decisions saying that the law was unconstitutional. And so, basically, the attorney general's office had already exited the case, decided not to appeal before, but then tried because of the new Republican who was elected, tried to get back in a different way as sort of an intervening party. And the question is whether or not they can do that. And so, again, it's very wonky and technical, and all of the justices' questions during the arguments were pretty technical. They were not really about abortion at all. But this has implications in states where the governor and the attorney general are of different parties, not just on who can defend these abortion laws in court, but also, you know, we can see the same thing happening with vaccine mandate laws or gun laws or even the results of the next election. So, I think it's definitely worth paying attention to.

Rovner: Yeah, it's an interesting case. It's about abortion in this case, but it could be about something else in the next time. Well, we keep hearing if *Roe* is overturned all the single-issue anti-abortion Republican voters will be completely swamped by the suddenly single-issue abortion-rights Democratic voters. We're seeing kind of a dry run of this in Virginia right now, which has an off-year election coming up in a few weeks. It's not just the governor's race. I've seen a lot of ads for down-ballot races and I mean, like, delegate races, with Democrats accusing Republicans of wanting to outlaw abortion. How much of a test will Virginia be going forward, considering that nothing has really happened yet on these abortion bans? I mean, is this fair to call this a dry run for how big ... abortion could be as an issue in next year's midterm elections?

Ollstein: Well, I think it's piggybacking also on how big a deal abortion was in the California [gubernatorial] recall race that we just saw. Of course, Virginia is not California. It's got a very different history. It was pretty conservative recently, although it has swung pretty far to the left in the last few years. And so the governor of California leaned really hard on the abortion-rights issue to mobilize Democrats to turn out in that race, seemingly successfully. And we have seen the governor, the Democratic candidate for governor, in Virginia attempting to do the same to really rally people. And so it will sort of be a good test of if this works in a more purple, less reliably liberal state.

Haberkorn: I think there's always reporters and political analysts who are always eager to jump on the Virginia governor's race because it's an off-year election and say that it's a harbinger for good or bad, whatever. I'm not sure that we're going to see that here in any intelligent way, because to your point, Julie, nothing has truly happened yet on the abortion issue.

Rovner: Except in Texas.

Haberkorn: Right, except in Texas. Excuse me. You know, a lot of the Democrats I talk to say that they're anticipating that this is going to be a huge motivating factor for Democrats in '22. And you know, I have every reason to think that that will be the case because, you know, we're talking about this right now and Texas is talking about it right now, but in December the country is going to be talking about it. And in June, presumably, when a decision comes out, the country is going to be talking about it. So, it definitely has the potential to be a big motivating factor in '22. Whether or not it's an issue in Virginia, we just don't know yet.

Rovner: I am fascinated by just the number of TV ads that I'm seeing highlighting it. It looks like, you know, I guess the two big issues in Virginia are education and abortion, which is not really what I had on my bingo card at the beginning of the year. Well, we will continue to see how this one plays out. Well, finally, this week, the Biden administration has approved a Colorado plan to require private insurers that serve the Affordable Care Act market to cover gender-affirming services for transgender people as an essential benefit. Some states already cover this care as part of their Medicaid programs. But this is the first state to require it for private insurance. This is a big turnaround from the Trump administration on this issue, right?

McIntire: Yeah, the Biden administration kind of seems to be trying to reverse and then further build on what the Trump administration had reversed during its four years. It'll be really interesting. You know, they seem to expect that additional states are now going to follow in Colorado's footsteps in requiring, you know, private insurance plans to cover these services and, you know, additional services to help facilitate transgender people's health. So, yeah, it'll be interesting. It's definitely, definitely trying to reverse and then further build on — and I think President Biden is saying, you know, "This is coming back to my campaign promise to improve things and better policies for [the] LGBTQ population." So, yeah, it'll be interesting to see how presumably more Democratic states build on this. Do Republican states try to do something to prevent these types of policies going forward?

Ollstein: We've already seen conservative states pushing a lot of anti-trans legislation, including things that would limit access to gender-affirming care and other health services. And so there's been a lot of calls from the advocacy community for the federal government to get more involved. And so I think this is, you know, one sign of that. I don't know if we will see them get involved more, maybe in legal challenges to some of the bans that states, including Texas, are working on passing or have passed already, like the abortion issue, where after a lot of pressure they finally got involved in a lawsuit against the state law. And so I don't know if we're going to see that in the trans-rights space as well, but we definitely could. And I think this is sort of the first foray in that direction.

Rovner: It does make me wonder whether right now — there have been this point about how abortion is more or less available, depending on where you live. I feel like this is coming for trans people's care, too, that in some states it's going to be much easier to get than in other states. Jen, you wanted to add something.

Haberkorn: I was going to make that exact point, that it's another example of the disparity between red and blue states and your health access. And just the latest example. I mean, we have a long history of it, but it seems like it's growing more and more disparate, depending on where you live.

Rovner: Yeah. So now not just for women, but for lots of people and lots of services. All right. Also something that we will continue to follow. Well, that is the news, at least for right now. Now we will play my interview with Beth Macy about "Dopesick," the new Hulu miniseries. Then we will come back and do the rest of our extra credits.

I am pleased to welcome to the podcast Beth Macy. Beth is a journalist and bestselling author whose latest book, "Dopesick," has been adapted into a new miniseries, now streaming on Hulu. Beth Macy, welcome to "What the Health."

Beth Macy: Thank you, Julie. Great to meet you, finally.

Rovner: So, your book and the new miniseries is about the opioid crisis. Let us start at the very beginning. What does it mean to be "dopesick"?

Macy: Dopesick is what every person with opioid use disorder that I have met calls the feeling of excruciating withdrawal. And the withdrawal's because they're now dependent on this drug and if they don't get it a couple of times a day, they get very, very sick. And they describe it ... it almost has like an outside hijacking of their brain. The fear of it is so great. They all say it's like the worst flu times a thousand. It's diarrhea, nausea, vomiting, and crushing anxiety and depression.

Rovner: It's everything you basically don't want to be.

Macy: Right. And I called the book that because it was in your face and I want it to be in your face, but also because a lot of people still don't understand that people with opioid use disorder will do just about anything to avoid the fear of dopesickness. And so if I could explain that, I hoped, then people might have more sympathy around the science of it, as well as the science for getting better from it.

Rovner: So, you lay a big part of the blame for the opioid crisis on one company, Purdue Pharma, and one drug, OxyContin. How was this one company and one drug so instrumental in such a broad-based problem?

Macy: In 1996, they introduced OxyContin, but at the same time they pushed this huge marketing effort that opioids — and they did this through pain societies that they gave money to and academics that they gave money to, to become paid speakers to push the notion that, whereas we had known for a whole century that opioids were addictive, should only be used for severe pain, cancer, end of life, they pushed the notion that pain was, like, wildly untreated. And suddenly, coincidentally right when their drug comes out, that it's safe to use for moderate pain for a long period of time. And I have this mug — I wish I had it right now to show it to you — but it's a mug that the reps would give the doctors, and it's super clarifying. On one side it has an OxyContin logo. And on the other side it says, "The one to start with, the one to stay with." They wanted you on that drug for a long time, because the longer you were on it and the more milligrams you took, the more money they made.

Rovner: I was on Capitol Hill in the late 1990s, and I remember that push about undertreated pain. It was not entirely clear that it was coming from sort of one place aimed at one drug. It was, it had gotten all the way around through the health reporting world at that point.

Macy: Absolutely. And it wasn't really, to be fair, it wasn't really just Purdue, because once everybody saw how successful they were, everybody jumped in. You know, the generic makers, the other opioid makers, the distributors. The pharmacies made a bundle, Walmart made a bundle, and they all jumped in. And if you look at — it's been very well documented by Patrick Radden Keefe at The New Yorker and ProPublica. The pharmaceutical lobby has spent almost \$1 billion, eight times more than what the gun lobby has spent — I mean, more than the gun lobby? — to, you know, crack away at the regulations that were designed to protect Americans.

Rovner: So, unlike a lot of journalists who pursued this story, you're actually from the area that was initially affected by the opioid crisis. Why was Appalachia and the Rust Belt such an attractive place to start marketing this drug?

Macy: Yeah, because one of the things Purdue very cannily did was they bought the data, called IMS Health, which shows which communities in America were already prescribing opioids at a higher rate. And those communities tended to be places where workplace injuries happened. And so they were mining communities, logging communities, seafood industry. So you saw it first break out in rural Maine; southwest Virginia, near where I'm from; Kentucky; parts of Ohio; West Virginia — poor West Virginia, still suffering the worst overdose numbers in the nation. So, they went to the doctors that they saw were already big prescribers — “whales,” they called them, like in Las Vegas — and they started out with them knowing that if they're already prescribing Percocet and Vicodin at a higher rate than all the other doctors in America they can go to them with their pitch. So they sent their sales reps to these offices, many times carrying flowers and certificates for mani-pedis and dinners and lunches. By the way, all pharmaceutical companies were doing that at the time. It was like the wild west of swag, pharmaceutical swag. But they would go and they would — just like you see on our show — they would sit down with the doctors and say, “This drug is safer than Vicodin, Percocet. Look, the FDA allows us to say that, even.” And of course, the story about how the FDA did allow them to say that is a big story point in our show that's very surprising. To most people it's shocking.

Rovner: Yes, although I think in recent years people are not that surprised by some of the FDA's coziness with industry. Obviously, lots has been written about the opioid crisis. We talk about it on the podcast a lot. But your book and the miniseries focused very much on individuals who are involved: doctors and patients and law enforcement, all of whom have been caught up in the crisis. How important is it to personalize this problem instead of just talking about it in raw numbers? And is that why you're participating in basically the dramatization of your nonfiction?

Macy: Absolutely. It is so important that Americans understand what happened and how we got here. When [then-president of Purdue Pharma] Richard Sackler told his minions, “Hammer the abusers. It's not our drug that's the problem; it's the criminals. They are the criminals. They are the problem,” they're basically blaming the people with opioid use disorder for taking their drug. So not only did they flip the notion that their drug was safe, then they blamed the people they helped addict. And you are still seeing that. I'm doing a lot of reporting right now on what are the solutions. I have a book coming out next August I just turned the first draft in Friday for, so way more edits to come on that. But one of the things I'm writing a lot about is this effort to scale down, unwind the war on drugs, which we spend \$50 billion — is it? — a year on incarcerating people, many of whom have opioid use disorder. So I've been in a lot

of jails, and what I see are the aftereffects of OxyContin, day in and day out. When you talk to people who are in our jails for drug-related charges, almost all of the ones that I've met and spoken to started out with OxyContin.

Rovner: And what is it about OxyContin in particular that makes it so addictive, other than the fact that the FDA said that, well, you know, it's timed-release, so it won't be as addictive?

Macy: Yeah. Well, it had the most amount of oxycodone in it. It was the strongest drug. And as you see if you watch the show, they just kept coming up with stronger and stronger versions. At one point they had 160-milligram pills. They took that off the market when they got the, I think it was when they got the black box warning in '01. But you know, they were still pushing this idea that if you go into a doctor's office and a patient is there exhibiting signs of dependence and addiction to their drug: "Oh, they're not addicted. They're pseudo-addicted." You know, they hired the guy who had invented that crazy term based on a study of one patient, and that was how they stigmatized folks over and over. And so the solution was more OxyContin. So if they're on 10, give them 20. If they're on 20, give them 40. If they're on 40, give them 80. And that was also like the nuclear bomb of opioid milligram prescribing.

Rovner: So, how has the opioid crisis changed your community? You're from southwest Virginia. It's still raging down there, right?

Macy: It's still raging everywhere, to be honest. And I think there's a big connection between the explosion and homelessness. I mean, I know that's multifactorial, and real estate has gotten so expensive, but there's a huge connection between rising homelessness and rising opioid crisis. You know, we have an 88% treatment gap in our nation. That means only 12% of people with OUD are actually getting treatment for it. And a part of that is because they have been so stigmatized and made to feel ... they've been cast aside, many by their families, by the systems meant to protect them, to help them. A health care system that largely doesn't take its own advice in terms of the gold standard of care for OUD being buprenorphine or methadone. You're still seeing a lot of money going into programs that don't follow the science. I don't know why we're still doing that. You're seeing doctors come out of med school, which are taxpayer-funded residency programs, not knowing how to treat a disease that 93,000 people died from last year. And that's all systemic stigma, you know? It's just growing worse. And then the communities, in the rural communities like our fictional Finch Creek or in a lot of the communities I've been reporting recently — whether it be Charleston, West Virginia; Hickory and Mount Airy, North Carolina; rural Indiana — what you see is still largely trying to arrest our way out, even as they say we can't arrest our way out of [it], and unnecessary barriers to care, putting up unnecessary barriers.

Rovner: Congress passed, you know, a huge opioid legislation, bipartisan, in — what was it? — 2018. I mean, it was supposed to address this. Is any of it getting better?

Macy: No, it's not getting better. I would love to — I mean, I'm such a glass-half-full person — but I would love to tell you it is. But it's not. They redo the numbers every month and then they'll tell you, you know, and then it's worse. Every month, it went from 93,000 to the most recent was 96,000. And, you know, one-third of that money didn't get to the ground level. It just, like, went back into the Treasury because we don't have an infrastructure built to address this crisis that so many people are dying from. You got a lot of that federal money coming down to single state agencies — in Virginia we call them community service boards. And if you've read "Dopesick," you see the young woman I followed over and over get turned away from there. She couldn't get on her MAT [medication-assisted treatment] or buprenorphine there. At one point, they would only see her if she tried their counseling first and failed.

Well, when fentanyl is everywhere, failure means death. And so even the money that did get sent down, and maybe did get put to usage for the opioid epidemic, not all of it got put to programs that [unintelligible] and the WHO and the CDC say are the best way. So we've got to have more federal leadership, I think. I think the drug czar needs to report to President Biden, which actually happened under [President Richard] Nixon in the early years. You know, before he went full into the war on drugs, Nixon hired this amazing psychiatrist named Jerome Jaffe to treat all the people coming back from Vietnam with heroin addiction. And Jaffe, what he created and only lasted a few years — and I talk about this a lot in my new book — but he basically created treatment on demand for people. So we've done it before; we can do it again. We just don't have the political will to make it so. And I think part of the power of the show is that, through eight hours of television, we tell the story that happens over mostly 15 years. It mostly ends in '07, with the exception of a few modern-day events that are the beginning of the eighth episode. But you can learn all of the story practically in real time, from what's happening in the boardroom to what's happening in the doctors' offices to what's happening on the ground. In some ways, we're using dramatization to tell an even deeper truth about how it happened. So you're able to, like, feel it, see it, hear it, cry with it — everything.

Rovner: Well, Beth Macy, thank you for raising awareness of this issue. I hope the miniseries is a success. I'm looking forward to watching the rest of it.

Macy: Oh, thank you so much, Julie. It's a treat to meet you.

Rovner: OK, we are back, and it's time for our extra credit segment, where we each recommend a story we read this week we think you should read too. Don't worry — if you miss it, we will post the list on the podcast page at khn.org. And now in the show notes too. Mel, you've done yours already this week. Alice, why don't you go next?

Ollstein: So, I chose a piece from The 19th by our sometimes podmate Shefali Luthra, and it's about how Kansas has been a place where people who have not been able to get abortions in Texas have been relying on, have been going there a lot over the last month since the ban went into effect. But next year Kansas will vote on its own ban, and its governor, who's a Democrat who supports abortion rights, is also up for reelection. And whether or not she prevails could have major implications for abortion rights as well. So it's just a good look about how, you know, what happens in one state affects all of the surrounding states on this issue.

Rovner: I sense a theme coming. Jen.

Haberkorn: My story is from Laurie McGinley at The Washington Post. The headline is "Covid and Cancer: A Dangerous Combination, Especially for People of Color." The headline gives it away, but it takes a good look at the disparities for people of color that have only been [exacerbated] during the covid pandemic, as people have delayed screenings for cancer and other illnesses and just overall health care. I thought it was a good look at the issue.

Rovner: It's a really sad story. Mine is from my KHN colleague Aneri Pattani, who last week brought us the latest Bill of the Month. This is a different story, called "Six Months to Live or Die: How Long Should an Alcoholic Liver Disease Patient Wait for a Transplant?" It's about rethinking a longtime rule that requires people with livers failing from excessive alcohol use to stay sober for six months before they can even be put on the liver transplant waitlist. The thinking was that some people might end up not needing the transplant, while others needed to prove they could stay sober and not quote-unquote

waste a precious resource. But it turns out that the six-month rule really doesn't do what it was supposed to — that alcoholism is a disease, not a moral failing, and that up to half the people who could get transplants instead die during the waiting period. It's a really thought-provoking story about, you know, a thorny medical ethics question.

So, that is our show for this week. As always, if you enjoyed the podcast, you can subscribe wherever you get your podcasts. We'd appreciate it if you left us a review; that helps other people find us too. Special thanks, as always, to our ace producer, Francis Ying. And also, as always, you can email us your comments or questions: We're at whatthehealth, all one word, @KFF.org. Or you can tweet me; I'm @jrovner. Mel.

McIntire: @MelMcIntire.

Rovner: Jen.

Haberkorn: I'm @jenhab.

Rovner: Alice.

Ollstein: @AliceOllstein.

Rovner: We will be back in your feed next week. In the meantime, be healthy.