

# Benjamin J. McMichael

101 Paul W. Bryant Drive, East | Tuscaloosa, Alabama 35487

bmc michael@law.ua.edu | 205-348-7372

## CURRENT ACADEMIC APPOINTMENT

---

The University of Alabama School of Law	
Associate Professor of Law	2021 – Present
Assistant Professor of Law	2018 – 2021

## EDUCATION

---

<b>Ph.D.</b> , Law & Economics, Vanderbilt University	2015
University Graduate Fellow	
<b>J.D.</b> , Vanderbilt University Law School	2015
Order of the Coif	
Articles Editor, VANDERBILT LAW REVIEW	
<b>B.S.</b> , <i>summa cum laude</i> , Mathematical Economics, Wake Forest University	2009
Phi Beta Kappa (junior election)	
Departmental Honors	

## CLERKSHIP

---

Hon. Carolyn D. King, United States Court of Appeals for the Fifth Circuit	2015 – 2016
--	-------------

## PUBLICATIONS

---

### Law Reviews

*Bringing Predictability to the Chaos of Punitive Damages*, 54 ARIZONA STATE LAW JOURNAL (forthcoming 2022) (with W. Kip Viscusi).

*Stealing Organs?*, 97 INDIANA LAW JOURNAL 135–201 (2022).

*Socially Distant Healthcare*, 96 TULANE LAW REVIEW 423–468 (2022) (with Allyson Gold and Alicia Gilbert).

*The Access-to-Care Epidemic*, 56 WAKE FOREST LAW REVIEW 547–607 (2021).

*State-Created Fetal Harm*, 109 GEORGETOWN LAW JOURNAL 475–522 (2021) (with Meghan Boone).

*Insuring Apologies*, 48 FLORIDA STATE UNIVERSITY LAW REVIEW 651–718 (2021).

*Contaminated Relationships in the Opioid Crisis*, 72 HASTINGS LAW JOURNAL 827–870 (2021) (with Elissa Philip Gentry).

*Occupational Licensing and the Opioid Crisis*, 54 UC DAVIS LAW REVIEW 887–966 (2020).

*Healthcare Licensing and Liability*, 95 INDIANA LAW JOURNAL 821–881 (2020).

*Sorry is Never Enough: How State Apology Laws Fail to Reduce Medical Malpractice Liability Risk*, 71 STANFORD LAW REVIEW 341–409 (2019) (with R. Lawrence Van Horn and W. Kip Viscusi).

*Taming Blockbuster Punitive Damages Awards*, 2019 UNIVERSITY OF ILLINOIS LAW REVIEW 171–221 (with W. Kip Viscusi).

*The Failure of “Sorry”: An Empirical Evaluation of Apology Laws, Health Care, and Medical Malpractice*, 22 LEWIS & CLARK LAW REVIEW 1199–1281 (2019).

*Constitutional Limitations on Punitive Damages: Ambiguous Effects and Inconsistent Justifications*, 66 VANDERBILT LAW REVIEW 961–1031 (2013) (Note).

### **Peer-Reviewed Economic and Law Journals**

*Responses to Liability Immunization: Evidence from Medical Devices*, 17 JOURNAL OF EMPIRICAL LEGAL STUDIES 789–819 (2020) (with Elissa Philip Gentry).

*The Impact of Cannabis Access Laws on Opioid Prescribing*, 69 JOURNAL OF HEALTH ECONOMICS 1–18 (2020) (with R. Lawrence Van Horn and W. Kip Viscusi).

*Shifting Liability with Licensing: An Empirical Analysis of Medical Malpractice and Scope-of-Practice Laws*, 12 JOURNAL OF TORT LAW 213–253 (2019).

*Beyond Physicians: The Effect of Licensing and Liability Laws on Nurse Practitioners and Physician Assistants*, 15 JOURNAL OF EMPIRICAL LEGAL STUDIES 732–771 (2018).

*The Demand for Healthcare Regulation: The Effect of Political Spending on Occupational Licensing Laws*, 84 SOUTHERN ECONOMIC JOURNAL 297–316 (2017).

*The Punitive Damages Calculus: The Differential Incidence of State Punitive Damages Reforms*, 84 SOUTHERN ECONOMIC JOURNAL 82–97 (2017) (with W. Kip Viscusi).

*Shifting the Fat-Tailed Distribution of Blockbuster Punitive Damages Awards*, 11 JOURNAL OF EMPIRICAL LEGAL STUDIES 350–377 (2014) (with W. Kip Viscusi).

### **Peer-Reviewed Medical and Health Policy Journals**

*As perinatal depression rates are increasing, antidepressants are the most likely to be discontinued during pregnancy*, 32 WOMEN’S HEALTH ISSUES (forthcoming 2022) (with Hayley D. Germack et al.).

*Nurse Practitioner Scope-of-Practice Laws and Opioid Prescribing*, 99 MILBANK QUARTERLY 721–745 (2021).

*Association of State Legislation and Industry Compensation to Orthopaedic Residents: A Three-Year Review of the CMS Open Payments Database*, 28 JOURNAL OF THE AMERICAN ACADEMY OF ORTHOPAEDIC SURGEONS 1020–1028 (2020) (with Bradley W. Wills et al.).

*Open Payments Reporting of Industry Compensation for Orthopedic Residents*, 77 JOURNAL OF SURGICAL EDUCATION 1632–1637 (2020) (with Adam M. Almaguer et al.).

*The Association of Nurse Practitioner Scope-of-Practice Laws with Emergency Department Use: Evidence from Medicaid Expansion*, 57 MEDICAL CARE 362–368 (2019) (with Joanne Spetz and Peter I. Buerhaus).

*Public Attitudes toward Contemporary Issues in Liver Allocation*, 19 AMERICAN JOURNAL OF TRANSPLANTATION 1212–1217 (2019) (with Heather O’Dell et al.).

*The Extra-Regulatory Effect of Nurse Practitioner Scope-of-Practice Laws on Physician Malpractice Rates*, 75 MEDICAL CARE RESEARCH AND REVIEW 312–326 (2018) (with Barbara J. Safriet and Peter I. Buerhaus).

*Innovating in Health Care Delivery*, 2 HEALTH MANAGEMENT, POLICY & INNOVATION 1–12 (2017), (with William H. Frist and R. Lawrence Van Horn).

## Book Chapters

*Negligence, Intentional Torts, Professional Liability, and Medical Malpractice*, in LAWS OF MEDICINE (Amirala Pasha ed., 2022).

*The Economic Context of Nursing Practice in the United States*, in FINANCIAL AND BUSINESS MANAGEMENT FOR THE DOCTOR OF NURSING PRACTICE (KT Waxman ed., 2022) (with Joanne Spetz).

## Short Academic Works

*Constraints on Medical Liability Through Malpractice Safe Harbors*, JAMA HEALTH FORUM (Aug. 14, 2020) (with James F. Blumstein and Alan B. Storrow).

*COVID-19 and State Medical Liability Immunity*, HEALTH AFFAIRS BLOG (May 14, 2020) (with John R. Lowry et al.).

*Are PAs and NPs Interchangeable*, 32 JOURNAL OF THE AMERICAN ACADEMY OF PHYSICIAN ASSISTANTS 16–17 (2019) (with Roderick S. Hooker).

*The Integrity of MACRA May Be Undermined By “Incident To Billing” Coding*, HEALTH AFFAIRS BLOG (January 8, 2018) (with Peter Buerhaus et al.).

*Worried About Malpractice?*, 29 JOURNAL OF THE AMERICAN SOCIETY OF ECHOCARDIOGRAPHY 1161–1162 (2016) (with Ben Byrd and Jim Cooper).

## OTHER ACADEMIC APPOINTMENTS

---

School of Nursing, University of Alabama at Birmingham Associate Professor of Nursing (voluntary appointment)	2022 – Present
Vanderbilt University Law School Research Assistant Professor Law	Summers 2018 – Present
Owen Graduate School of Management, Vanderbilt University Postdoctoral Scholar (Healthcare Area)	2016 – 2018

## TEACHING

---

### The University of Alabama

#### *Courses*

Health Care Law: Spring 2022, Spring 2023 (scheduled)

Insurance Law: Spring 2019, Spring 2020, Spring 2021, Spring 2023 (scheduled)

Introduction to the Study of Law: Fall 2020, Fall 2021

Products Liability: Spring 2021

Torts: Fall 2018, Fall 2019, Fall 2020, Fall 2021, Fall 2022 (scheduled)

#### *Member of the Graduate Faculty*

2021 – Present

#### *Dissertation Committee Service*

Catherine Gayle Thrash (Political Science)

### *Awards*

2021 Outstanding Faculty Member Award

Member of faculty hooding team: 2021, 2022 (chosen by members of the graduating class)

### **Vanderbilt University**

#### *Courses*

Health Care Law and Regulation: Spring 2017

Managerial Economics: Fall 2017

### **REVIEWER SERVICE**

---

AMERICAN JOURNAL OF PREVENTATIVE MEDICINE; AMERICAN JOURNAL ON ADDICTIONS; BMJ OPEN; HEALTH AFFAIRS; HEALTH ECONOMICS; HEALTH MANAGEMENT, POLICY AND INNOVATION; HEALTH POLICY OPEN; IZA JOURNAL OF LABOR ECONOMICS; JOURNAL OF EMPIRICAL LEGAL STUDIES; JOURNAL OF HEALTH ECONOMICS; JOURNAL OF RISK AND UNCERTAINTY; MEDICAL CARE RESEARCH AND REVIEW; OPHTHALMOLOGY; SOUTHERN ECONOMIC JOURNAL.

### **SELECTED PRESENTATIONS AND CONFERENCES**

---

#### **2022**

Business Case for Nursing Summit at Emory University's Goizueta Business School and Nell Hodgson Woodruff School of Nursing; Soshnick Colloquium in Law and Economics at Northwestern Pritzker School of Law; Vanderbilt University Law School PhD Workshop.

#### **2021**

Boston University School of Law Law & Economics Seminar; Frontiers in Law & Economics Conference; Comprehensive Transplant Institute (UAB School of Medicine) Grand Rounds; American Law and Economics Association Conference; Nurse Practitioner Alliance of Alabama; Southern Economic Association Annual Meeting.

#### **2020**

Wake Forest University School of Law Faculty Workshop; Public Choice Society Annual Meetings (paper accepted; conference canceled); American Law and Economics Association Conference (paper accepted; conference canceled).

#### **2019**

Southern Economic Association Annual Meeting; Conference on Empirical Legal Studies; Developing a Nursing Health Services Research Agenda for the 2020s Conference; American Society of Health Economists Conference; American Law and Economics Association Conference; Frontiers in Law and Economics Conference; Eastern Economic Association Conference; West Virginia University Department of Economics Seminar Series.

#### **2018**

Southern Economic Association Annual Meeting; Southeastern Junior-Senior Workshop; Midwestern Law and Economics Association Annual Meeting; PIAA Medical Liability Conference.

#### **2017**

Seminar at Antonin Scalia Law School, George Mason University; Seminar at University of Alabama School of Law; Conference on Empirical Legal Studies; American Law and Economics Association Annual Meeting.

#### **2016**

American Enterprise Institute Seminar; Southern Economic Association Annual Meeting.

**2015**

American Law and Economics Association Annual Meeting.

**2014**

Wake Forest University Department of Economics Faculty Workshop; Southern Economic Association Annual Meeting; American Society of Health Economists Fifth Biennial Conference (accepted to conference program).

**2013**

Southern Economic Association Annual Meeting.