

Benjamin J. McMichael

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PRIMARY ACADEMIC APPOINTMENT

The University of Alabama School of Law	
Associate Professor of Law (tenure granted 2023)	2021 – Present
Director of Interdisciplinary Legal Studies	2023 – Present
Assistant Professor of Law	2018 – 2021

EDUCATION

Ph.D. , Law & Economics, Vanderbilt University	2015
University Graduate Fellow	
J.D. , Vanderbilt University Law School	2015
Order of the Coif	
Articles Editor, VANDERBILT LAW REVIEW	
B.S. , <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
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PUBLICATIONS

Law Reviews

The Future of Frozen Embryos, 78 SMU LAW REVIEW (forthcoming 2025) (with Clare Ryan).

A Constitutional False Claims Act, 102 WASHINGTON UNIVERSITY LAW REVIEW (forthcoming 2025) (with Mackenzi N. Barrett & W. Kip Viscusi).

Inequitable Organ Allocation, 58 UC DAVIS LAW REVIEW 1–110 (2024).

Reproductive Objectification, 108 MINNESOTA LAW REVIEW (2024) 2493–2560 (with Meghan Boone).

Bringing Predictability to the Chaos of Punitive Damages, 54 ARIZONA STATE LAW JOURNAL 471–525 (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

Scope-of-Practice Laws and the Practice Patterns of Nurse Practitioners and Physician Assistants, 43 CONTEMPORARY ECONOMIC POLICY 9–30 (2025).

Supply-Side Health Policy: The Impact of Scope-of-Practice Laws on Mortality, 222 JOURNAL OF PUBLIC ECONOMICS 1–20 (2023).

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

Impact of Fentanyl Test Strips as Harm Reduction for Drug-Related Mortality, 83 MEDICAL CARE RESEARCH AND REVIEW (forthcoming 2025) (with David Mitchell and Moiz Bhai).

Maximizing the Potential Value of the Nursing Workforce, 71 NURSING OUTLOOK 1–6 (2024) (with Sharon Pappas et al.).

Toward a Uniform Classification of Nurse Practitioner Scope of Practice Laws, 80 MEDICAL CARE RESEARCH AND REVIEW 444–454 (2023) (with Sara Markowitz) [Chosen by editorial board as 2023 Article of the Year].

Antidepressants Are the Most Commonly Discontinued Psychotherapeutic Medications in Pregnancy, 32 *WOMEN'S HEALTH ISSUES* 241–250 (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

Developing Safe Harbors to Address Malpractice Liability and Wasteful Health Care Spending, *JAMA HEALTH FORUM* (Nov. 22, 2023) (with James F. Blumstein and Alan B. Storrow).

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 FOREFRONT* (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 FOREFRONT* (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

University of Alabama at Birmingham School of Nursing Associate Professor of Nursing (voluntary appointment)	2022 – Present
Vanderbilt University Law School Research Assistant Professor Law	Summers, 2018 – 2024
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, Spring 2024, Spring 2025
Insurance Law: Spring 2019, Spring 2020, Spring 2021, Fall 2022, Spring 2025
Introduction to the Study of Law: Fall 2020, Fall 2021
Products Liability: Spring 2021, Spring 2024
Torts: Fall 2018, Fall 2019, Fall 2020, Fall 2021, Fall 2022, Fall 2023, Fall 2024

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, 2023, 2024 (chosen by graduating class)

Vanderbilt University

Courses

Health Care Law and Regulation: Spring 2017
Managerial Economics: Fall 2017

REVIEWER SERVICE

AMERICAN JOURNAL OF HEALTH ECONOMICS; AMERICAN JOURNAL OF PREVENTATIVE MEDICINE; AMERICAN JOURNAL ON ADDICTIONS; AUSTRALIAN JOURNAL OF ADVANCED NURSING; BMJ OPEN; CONTEMPORARY ECONOMIC POLICY; HEALTH AFFAIRS; HEALTH ECONOMICS; HEALTH MANAGEMENT, POLICY AND INNOVATION; HEALTH POLICY OPEN; IZA JOURNAL OF LABOR ECONOMICS; JOURNAL OF ADVANCED NURSING; JOURNAL OF EMPIRICAL LEGAL STUDIES; JOURNAL OF HEALTH ECONOMICS; JOURNAL OF LAW, ECONOMICS AND ORGANIZATION; JOURNAL OF LAW AND ECONOMICS; JOURNAL OF POLICY ANALYSIS AND MANAGEMENT; JOURNAL OF PUBLIC ECONOMICS; JOURNAL OF RISK AND UNCERTAINTY; MEDICAL CARE RESEARCH AND REVIEW; MILBANK QUARTERLY; NURSING OUTLOOK; OPHTHALMOLOGY; SOUTHERN ECONOMIC JOURNAL; YALE LAW JOURNAL.

SELECTED PRESENTATIONS AND CONFERENCES

2024

Allied Social Sciences Association Annual Meeting; Empirical Health Law Conference (Duke Law School); American Law and Economics Association Conference; American Society of Health Economists Conference; Law and Economics Colloquium (New York University School of Law).

2023

Southern Economic Association Annual Meeting; Indiana University Robert H. McKinney School of Law Faculty Workshop; Advanced Practice Registered Nurses Scope of Practice Forum at Case Western Reserve University's Frances Payne Bolton School of Nursing.

2022

American Society of Health Economists Annual Conference; 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; Midwestern Law and Economics Association Conference; Conference on Empirical Legal Studies; Southern Economic Association Annual Meeting.

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.