

# New challenge to vaccine mandate cites Hochul's statements on God

As religious exemptions denied, Hochul said creation of vaccine

[Brendan J. Lyons](#) Oct. 5, 2021 Updated: Oct. 5, 2021

7:47 p.m.

3

1 of 3 [Buy Photo](#)

A federal lawsuit notes Gov. Kathy Hochul has credited God for creation of COVID-19 vaccines while her administration has fought against issuing religious exemptions for health care workers who do not want to get vaccinated.

Lori Van Buren/Times Union

ALBANY — Four medical professionals who work for a Catholic hospital in Binghamton have filed a new federal lawsuit challenging the state's vaccination mandate for health care workers on the grounds it does not include a religious exemption.

The arguments by the plaintiffs — two doctors, a nurse and a scientist who work at Our Lady of Lourdes Memorial Hospital — include that they believe their Catholic faith prevents them

from "committing a grave sin" by taking COVID-19 vaccines that may have used fetal stem cell tissues as part of their research and development.

"The governor has declared open war against those who oppose vaccination on religious grounds because these religious beliefs are in conflict with her own," the complaint states. "Gov. Hochul repeatedly claims that religious beliefs in opposition to vaccination are illegitimate and invalid."

**All the stories, all the time**

**Unlock Times Union for 99¢**

[Subscribe](#)

The lawsuit is the latest in a series of legal challenges to [the state Department of Health's controversial vaccination mandate](#) that compelled hospitals and other medical facilities — including state-run hospitals and nursing homes — to suspend or terminate health care professionals who refused to be vaccinated by Sept. 27.

The plaintiffs "are just four of the hundreds of similarly situated Ascension-Lourdes employees who were suspended in reliance of the stayed vaccine mandate," the complaint states. (Ascension is the Catholic health care nonprofit that operates Lourdes Hospital.) It adds the hospital "is currently in a staffing crisis, the magnitude of

which they have never experienced, and patient care and community safety are also in a state of emergency as a result."

The plaintiffs' attorneys filed the case without identifying the employees, contending they work "in a culture where those who cannot take vaccinations for medical or religious reasons are made into political pariahs and scapegoats for the societal frustrations of living through a pandemic."

The federal case, filed in U.S. District Court in Albany, also cites public statements Hochul made on Sept. 26 at a Christian Cultural Center in Brooklyn, when she said, "I need you to be my apostles. I need you to go out and talk about it and say, we owe this to each other. We love each other. Jesus taught us to love one another and how do you show that love but to care about each other enough to say, please get the vaccine .... "

The lawsuit contends additional remarks by Hochul indicate anyone whose religious beliefs conflict with her own on vaccines are "invalid," and that she said Pope Francis agrees with her position. The governor has also publicly stated that God is responsible for the creation of the COVID-19 vaccines, the complaint states.

"God did answer our prayers," the governor said. "He made the smartest men and women, the scientists, the doctors,

the researchers — he made them come up with a vaccine."

Although at least two judges have issued temporary restraining orders to delay the state from imposing the vaccine mandate on workers who invoke a religious exemption, the lawsuit argues the state — and many of the employers regulated by the health department — have ignored those court orders.



One of the plaintiffs in the Binghamton case is a doctor who has been practicing for more than 26 years and developed "classic symptoms" of COVID-19 last year, including loss of taste and smell, after tending to her father, who died of symptoms related to the disease. She has since been exposed to other COVID-19 patients but has not been re-infected, the filing states.

A second plaintiff, a pathologist who works in a lab at the hospital with limited public contact, was denied her request

to be exempted from the mandate for religious reasons. However, that same doctor, who remains unvaccinated, was not suspended from her job last week because she is also participating in a drug trial for the U.S. Food and Drug Administration that requires her to remain unvaccinated for COVID-19 while the study is pending.

"The hospital has taken the position that (the pathologist) can safely be at her job unvaccinated, they simply refuse to allow her to do so for religious reasons," the lawsuit notes.

The lawsuit also challenges the legal authority of the "emergency order" issued by former state health Commissioner Howard Zucker, because it was issued two months after the state of emergency for the pandemic had ended.

In addition, the lawsuit asserts both state and federal constitutional violations because it argues that vaccine mandates must be issued through a legislative process, and the governor's emergency powers were suspended this summer when former Gov. Andrew M. Cuomo was still in office. The complaint also raises questions about whether mandatory vaccinations will curb the spread of the highly infectious delta variant.

"If anything, the emergence of the delta variant weakens any claim that vaccine mandates are necessary because it is

well-established by the science that our vaccines are far less effective against the delta variant and cannot stop transmission of disease from vaccinated carriers," the complaint states.

The plaintiffs' attorney is Sujata S. Gibson of Ithaca. Robert F. Kennedy Jr., an anti-vaccine advocate with the Children's Health Defense organization, is also listed "of counsel" in the filing.