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State drops six charges in Abate case

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The state Attorney General's Office has decided to drop an aggravated sexual assault and six lewd and lascivious charges against a Colchester orthopedic surgeon in connection with claims he improperly touched female patients during medical examinations.

Dr. Joseph Abate still faces three aggravated sexual assault charges and four sexual assault charges in connection with his conduct with seven female patients, according to a document outlining the revisions approved Friday by Judge Patricia Zimmerman.

"The state has elected to reduce the number of charges for the jury to consider by proceeding on the more serious offenses of sexual assault and aggravated sexual assault," Maguire wrote in a memorandum on file at Vermont District Court in Burlington.

Maguire did not respond to a request for comment and Eric Miller, Abate's attorney, declined comment Friday on the dismissal of the aggravated sexual assault and six lewd and lascivious counts. The case, the subject of a status hearing Monday, is scheduled to go on trial in late April.

The state, in papers filed with the court, contends Abate touched or penetrated the genital area of the patients during medical examinations and sometimes was not wearing gloves during the incidents.

The patients, most of them student-athletes, were being treated for hip pain or other ailments and were all between the ages of 18 and 22 when the alleged conduct took place. The incidents occurred between 2003 and 2007, sometimes in the early evenings after Abate's offices were closed, court papers said.

Miller, on Abate's behalf, has steadfastly insisted his client is innocent of the charges and has called the allegations a "tragic mistake." Abate, presently on leave from his duties at Fletcher Allen Health Care and the University of Vermont, has been a longtime surgeon to sports teams at

UVM, St. Michael's College and various high schools.

The case has been the subject of intense pre-trial investigation by both sides as lawyers for the state and Abate have interviewed former patients, studied patient medical records and consulted orthopedic experts from across the country.

Abate's court filings show that Miller may have some of Abate's former patients testify on the doctor's behalf during the upcoming trial.

If convicted Abate faces a potential life sentence on each aggravated sexual assault count, plus a \$50,000 fine, and a three-year prison term and \$25,000 fine on each of the sexual assault counts.

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