

Yeas: Alvarado, Bettencourt, Birdwell, Buckingham, Fallon, Flores, Hancock, Hinojosa, Huffman, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Rodríguez, Schwertner, Taylor, Watson, Whitmire, Zaffirini.

Nays: Campbell, Creighton, Hall, Hughes, Seliger, West.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3703 ON SECOND READING**

On motion of Senator Campbell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3703** at this time on its second reading:

CSHB 3703, Relating to the prescription of low-THC cannabis for medical use by certain qualified physicians to patients with certain medical conditions.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3703 ON THIRD READING**

Senator Campbell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3703** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

REMARKS ORDERED PRINTED

On motion of Senator Birdwell and by unanimous consent, the remarks by Senators Birdwell and Campbell regarding **CSHB 3703** were ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator Birdwell, for what purpose?

Senator Birdwell: Questions of the author. Thank you, Mr. President. Thank you, Senator Campbell. I want to have a very deliberate conversation with you about this issue, potential direction that we're taking the State of Texas. I want to ask some questions of you and then also provide some comments based upon what I've already heard and experiences. Is there any future objective to have medical practitioners who practice the specialties outside of those listed in your bill, epilepsy, seizure disorders, multiple sclerosis, the others, to have prescribing authority at some future?

Senator Campbell: No. I think it's very important that we have a specialist of the diseases that are listed—

Senator Birdwell: Okay.

Senator Campbell: –to have that interaction with the patient, so no family practice, no other–

Senator Birdwell: Okay, because I–

Senator Campbell: –it's limited.

Senator Birdwell: –I'm happy with that because I don't want to make my medical experience the center of gravity of our conversation, but it is an animator–

Senator Campbell: Yes.

Senator Birdwell: –of what I want to discuss because I mean, there's a few specialties I've not seen. One of the reasons I like the way and the manner in which you and Representative Klick have written this bill is that it's a very tight shot group.

Senator Campbell: Yes, Sir.

Senator Birdwell: But my concern is, and while I share Senator Menéndez's desire for what you've expressed here in expanding who may receive such compassionate care, I come at this with a highly guarded sense of danger of the direction that this might take us to a recreational use. So, my second question is, do you intend for family practice or nurse practitioners working under doctors with these areas of specialty to have prescribing authority?

Senator Campbell: Absolutely not. And that'll be in the record.

Senator Birdwell: Because what you and I have seen, scope of practice bills are always extremely difficult, but in this case, because of the nature of the precedent that we are moving toward or that we are setting and the potential direction that this state might take with a future Legislature. I don't want to see this bill turn into a scope of practice battle between doctors in these specialties and nurse practitioners under those specialties or in areas of the state, as large as we are, that may not have these specialties in our more rural counties to see family practice doctors or some other specialty authorized to do something outside of this scope of practice, simply because of the geographic nature of where those practitioners are in the State of Texas. So, it is not your intention to have nurse practitioners, physician assistants that work under doctors in these licenses to have prescribing authorities, not is it your intention that doctors outside of these specialties in parts of the state that don't have a density of these specialties, to at some point be given prescribing authority?

Senator Campbell: That is correct. So, it's not just an intent. We know intent can be one thing, but words on paper are something else and this clearly, this bill clearly defines it as a physician, doctor, board certified in the specialist, and that specialist approved by the American Board of Medical Specialties. This is not, does not apply to anyone practicing outside the medical specialties nor anyone that works for them or under them or that they supervise.

Senator Birdwell: Okay, the primary purpose of the CBD oil, as you have, I should say primary purpose, but the neuro-generative diseases, but you also have terminal cancer listed–

Senator Campbell: Yes.

Senator Birdwell: —and it is the one diagnosis that is not neuro-generative. You know epilepsy, seizures, MS, ALS, autism, and other incurable neuro gen— all share neurology as their common theme. Cancers are a separate area of diagnosis, correct?

Senator Campbell: Well, let me just qualify that. Brain hits every, I mean, excuse me, cancer hits every specialty, if you will. Brain cancer, spinal cancer, neuroblastomas, so there is a form of cancer that is terminal, neuro-generative, but for the purpose of this, I am speaking in general about terminal cancer.

Senator Birdwell: Okay, so my concern is, are there terminal cancers, because you have, when we spoke about this earlier, it's terminal cancers primarily because of the pain generated by terminal cancers, not the fact that it's cancer in general, but that it is terminal, thus causing certain amounts of pain because of it's terminal nature of cancer?

Senator Campbell: Right, that's a fair statement. We're dealing with the pain. Also, this can help nausea, that as you can have bowel obstruction and some other problems with where the cancer is, it can also help nausea, but again, that is left between the specialist and the patient.

Senator Birdwell: Okay, is the, are there cancers that, though terminal, are either less painful or not painful in your specialty and as a medically trained doctor, I submit to your knowledge and authority. What I'm very trying to hone in on—

Senator Campbell: Yes.

Senator Birdwell: —is that it's pain related to terminal cancers, and I don't want this, no pun intended meant whatsoever, but I don't want this bill to metastasize into a pain management bill.

Senator Campbell: Right.

Senator Birdwell: Where now it's not related to cancer, it's now just simply pain.

Senator Campbell: And that is a good question and for some that are concerned about whether this is a slippery slope and where are we—

Senator Birdwell: I'm more concerned it's a cliff—

Senator Campbell: Yeah.

Senator Birdwell: —Senator, but that's why we're having a very—

Senator Campbell: A very candid conversation.

Senator Birdwell: —very sound conversation.

Senator Campbell: Yes, yes, yes. There are, it is for terminal cancer. Pain associated with terminal cancer and I think I may have lost—

Senator Birdwell: But the oncologist—

Senator Campbell: —your question.

Senator Birdwell: —the oncologist will be the one, because look, I've had a—

Senator Campbell: Yes, yes.

Senator Birdwell: –I've had a pain management doctor walk into my room the day after I came out of ICU. I don't want this to turn into, now we've added, we're going to add pain management specialists, and it's Katy, bar the door.

Senator Campbell: Well, so to your point, initially, I thought any doctor-patient relationship was good enough, but I put belt and suspenders and defined it to just those specialists that deal with those–

Senator Birdwell: Right, because here's–

Senator Campbell: –type of diagnosis, those type of patients.

Senator Birdwell: Here's the reason I ask the specificity of the question, and I'll revert to my personal medical experience. While my experience was not neurological, actually there was a part of it that was, because of the vestibular I had, doctor, but–

Senator Campbell: Yes, Sir.

Senator Birdwell: –but there was a part of it that was, that I had to be referred to a neurologist for some of the, and an OTO doc, for some of the inner ear damage as a result of some of the–

Senator Campbell: I can only imagine.

Senator Birdwell: –the, but point I'm getting at is, all the medical professionals that I dealt with and I continue to deal with, none have ever said I needed CBD. Now, granted, the bulk of the rigor of my experience was 2001 to 2005. While that's very valid experience, its shelf life as it relates to advances in medical technology is very different. So, I'm open to this consideration that you've put in here, again, because I think you've crafted the bill very tightly. I'm just very concerned that we're going to rush, again, with all respect to Senator Menéndez, I wouldn't be comfortable going any further than this because of what I'm seeing in Colorado, Washington, and Oregon and what's happening in those states, I am highly guarded. And that's why I want to have this conversation with you.

Senator Campbell: And, Senator Birdwell, that's why we've put restraints on this bill, kept it narrowly crafted. So, I appreciate that. I share your concerns for any movement toward jumping, I mean, this going over the cliff for legalizing marijuana. I am not for legalizing marijuana. I don't think that's a surprise to anyone.

Senator Birdwell: Is there a, the reason I ask the question about types of cancer is are there cancers that are terminal that don't require CBD as a pain–

Senator Campbell: Pain, yes.

Senator Birdwell: –or, do you know if there are?

Senator Campbell: You know, there's likely to be some out there. There are so many cancers, but even a, which is a skin cancer gone wild, can have pain, because eventually, as cancer metastasizes, it starts affecting nerves, nerve endings, and that's where you start getting your pain. So whether it's headaches from glioblastoma or belly pain because of cancer, so I cannot say that there are some cancers that do not have pain, but what I can say is that the decision between a doctor and a patient, the

oncologist, the specialist and somebody who's got terminal cancer, it's up to them, and at some point, I've got to leave it to the doctor's discretion. There is, I hope nothing in this bill that—

Senator Birdwell: Okay.

Senator Campbell: —is the nose of the camel under the chin for legalizing marijuana.

Senator Birdwell: Is there any contemplation of CBD oil use for cancer that is non-terminal?

Senator Campbell: No.

Senator Birdwell: Is there any contemplation in the bill that you would intend at some future date that you mentioned you took research out—

Senator Campbell: Yes.

Senator Birdwell: —exactly what the research was, I don't know, but some sort of data analysis, is there any contemplation of changing the percentage from low THC .5 to something that would be measured as moderate or high THC?

Senator Campbell: I can tell you I did start with that. I started with less than one percent. There's more information for .5 but what we've been able to see is the last four years when it was first passed in '15, we haven't seen any problems or movement toward legalizing marijuana any more by having that, so I think .5 is safe. Now, the bill does not imply that we're going any higher. Is it my intention, my intention is to watch for research, see what it shows. It's not my intention to go further, higher, that's probably not a good term, it's not my intention to increase the percentage of THC without some substantial data, good quality.

Senator Birdwell: You mentioned data—

Senator Campbell: And research, it's not just data—

Senator Birdwell: —and research.

Senator Campbell: —but it, sorry.

Senator Birdwell: But that takes me to my next question that, does the Texas Medical Board, or is there a private entity out there does it, because look, I've had, what makes this session different for me, in previous sessions, I've had individuals come in, talk to my staff that I knew that their ultimate in state, based upon, you know, Facebook pages, other things, their ultimate in stake was full recreational legalization.

Senator Campbell: Yes.

Senator Birdwell: But they were in talking to me about medical use of marijuana.

Senator Campbell: Yes.

Senator Birdwell: So, that caused me suspect in their motivations for why they were, because it's, you win your battles in Ascalon, and to get the full recreational, you know, are we going down that road as we've talked. But what made this session different for me was that I had some parents, parents of Blake—

Senator Campbell: The disorder.

Senator Birdwell: —people that aren't ness— you know, that have the same cautions that I do, that said there may be some potential here. So, it told me there's a different motivation. I was doing my best, as the Lord says, be discerning, and so that caused me some, a slightly different perspective in how I looked at what might be some potential here. But I want to make sure that it's research that is unbiased, that it's research that, because look, I have yet to have competent medical authority come in and tell me, this is the right thing to do. You're the first doctor to tell me this is the right thing to do. I've had a bunch of people interested in something else tell me it's the right thing to do, but you're the first doctor to tell me that. And I've seen a lot of doctors in my last 18 years, Doc, but so does the Medical Board have some mechanism to give us unbiased analysis of that research or is there some other entity that the state has to give us authenticated view of that research, as opposed to a biased, or partisan's not the right word, but an agenda-driven research result?

Senator Campbell: That's a good question. I will say that I don't believe the Texas Medical Board has that even on their radar. Their board is more complaint driven, trying to protect the public, general welfare, and make sure doctors are doing what they're supposed to do.

Senator Birdwell: They were up for, go around, this wasn't any part of that, so.

Senator Campbell: Alright, no, so to answer your question specifically about the Texas Medical Board, no. Now, I can tell you that this has DPS oversight from the dispensaries to physicians the registry. Now, again, since it was passed in '15, there doesn't seem to have been problem. We will now look what happens over the next two years, and sometimes you say you can't take the genie out of the bottle, but we most certainly can tighten up the neck of that if we find that there's misuse, mishandling, mis-prescribing by physicians. We've tried to tight narrowly. Physicians really walk, you know, whenever you're talking about specialist, they're trying to walk the line, so—

Senator Birdwell: Well, here's the—

Senator Campbell: —I'd say DPS is probably the closest thing we have. Do we have a specific agency or group that's going to measure the data, monitor it, other than DPS, I don't think so.

Senator Birdwell: What I don't want to see happen is either CBD be the bridge to full recreational ma— you know, recreational usage. I also don't want to see it, in its current format, become the next opioid crisis.

Senator Campbell: Yes.

Senator Birdwell: So, what are the mechanisms in place to ensure that, and it sounds like we haven't contemplated that yet here?

Senator Campbell: Well, I think that we limited it. It's not as easy to get. It is, there's only three dispensaries that do this, sell this. It's expensive, but saying all that aside, we can do something today to help families even though we don't have, I mean, with these diagnosis, even though we don't have great data. And as I've said the onset, that's the arena I'm used to practicing in. We can't control what the next legislative body will do, what even the makeup of the Chamber would look like, so I

can't speak to that. I can only speak to what this bill directs, and if I need to come back and do something more, because we have seen some missteps, I'll be the first to lead on that.

Senator Birdwell: I would certainly appreciate that.

Senator Campbell: You're welcome, Senator.

Senator Birdwell: I have another question, Madame Senator, and then there's a couple of points I want to make. Is there a possibility, you mentioned the ABMS specialties of the Bureau of Osteopathic Specialties. Is there a possibility that those two organizations could make a change to their specializations in what they sanction that would inherently expand prescribing authority based upon your legislation here, that would expand medical professionals based upon their change in certifications, that would expand the medical professionals that you did not contemplate in this legislation?

Senator Campbell: No, because it says—

Senator Birdwell: Okay, two private boards will not be able to make a decision that has the inverse effect in the State of Texas law that you have not contemplated here?

Senator Campbell: Correct, you can become a specialist in THC, cannabis, treatment of cannabis, whatever, that is not a specialty that is, if a board opens it up for a specialty like that, that does not meet the diagnosis requirements for the specialists. So, it's not going to make them a cancer doctor.

Senator Birdwell: I just want to make sure that in the way you've structured the bill, decisions by non-legislative body, but a medical board will inherently expand, as you've got it written in the state law.

Senator Campbell: A board can open up specialties however they want, whatever the criteria they base it on. But the bill says you've got to be a specialist in that disease, so can't speak to what they would do. And let me tell you, Senator Birdwell, you're bringing up great questions, and it is definitely something that I think I need to come back with next session. It's late in the session and maybe put, look at what we've talked about and bring in some legislation just to provide some security, some assuredly of the bill.

Senator Birdwell: I also want to mention, tell you something in your capacity, not just as a doctor, but as Chair of the Committee on Veteran Affairs and Border Security. There are challenges that you're seeing, and I mean no disrespect to our fellow sovereign states of Colorado, Oregon, Washington and others, but you're already seeing a black market for high THC in Colorado, the nature of destruction of lives and opportunity from the misuse of recreational marijuana. I've got employers in my district that tell me about their concerns, particularly with younger employees, but finding folks that can pass a drug test. I don't want the State of Texas to move to a future state endorsement of such challenges, and that's why I'm so concerned with this bill, not as it is, but the step of, that it must be to get to some future state, thus my concern with what Senator Menéndez has said. I don't think he wants full recreational use, but I am highly cautious as the direction in the state, the steps that we are taking here. What wounds my heart most, though, Senator, in your capacity as Chair of

Veteran Affairs, is that there are those out there that would leverage in the name of compassion, veterans who wear the scars or the missing limbs that no one wants to say no to—

Senator Campbell: Yes, Sir.

Senator Birdwell: —that would leverage that compassion and that desire not to say no to veterans, that will use that leverage and as my discernment informs me to the full legalization of recreational marijuana. Members, I want you to understand what I'm about to tell you. We will do a major disservice to our state and I would admonish this body to not let my scars or those of other veterans cause us to endorse such a policy. One of my most famous constituents, Chris Kyle, is deceased because of multi-year marijuana user who claimed in his murder trial to have PTSD. Fortunately, there were 12 Texans in that jury box from Stephenville that didn't buy that. And from the conversation you had with Senator Lucio about what we found in veterans who have committed suicide for THC, I want to make sure that we don't put us down that road. Senator, I think you have crafted the bill correctly. You and Representative Klick, I should say, have crafted the bill correctly. I will support it. But I will not allow it to become the road to perdition for Texas that is manifested itself in Colorado and other states. Thank you for your work, Madame. Ma'am.

Senator Campbell: Thank you, Senator Birdwell. I appreciate the comments, the questions, and I agree and will support that.

HOUSE BILL 2868 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **HB 2868** at this time on its second reading:

HB 2868, Relating to the procurement of interior design services by a governmental entity.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Alvarado, Bettencourt, Buckingham, Creighton, Flores, Hancock, Hinojosa, Huffman, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Powell, Rodríguez, Schwertner, Seliger, Taylor, Watson, West, Whitmire, Zaffirini.

Nays: Birdwell, Campbell, Fallon, Hall, Hughes, Paxton.

The bill was read second time and was passed to third reading by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

HOUSE BILL 2868 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2868** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.