To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Committee Substitute for Senate Bill No. 2197 (First Reprint) with my recommendations for reconsideration.

This legislation would provide for the use of Physician Orders for Life-Sustaining Treatment ("POLST") forms in New Jersey. Under the bill, a POLST form can be filled out on a voluntary basis by a patient who either has an advanced chronic progressive illness or a life expectancy of less than five years, or who otherwise wishes to further define his or her preferences for health care. A POLST form, which can replace or complement an advance directive and other end-of-life planning tools, seeks to ensure that seriously ill persons’ wishes regarding life-sustaining treatments are known, communicated, and respected across all health care settings.

I commend the sponsors for putting forward legislation that seeks to improve end-of-life care. End-of-life care issues are often very complicated, and raise many difficult and emotional issues for patients and their families. Although advance directives provide an important means of ensuring that a patient’s wishes are respected, families and health care professionals are often confronted with the negative consequences of inadequate end-of-life care planning. As a result, a POLST form can be a useful tool to improve end-of-life care for patients, families, health care professionals, and health care institutions as long as it is clear that the form may only be completed, modified, or revoked in a way that fully respects the patient’s health care wishes.
While this bill protects the patient’s health care wishes and could help guide specific treatment by creating a mechanism that allows for effective communication between a patient and/or his or her legally designated decision-maker and health care professionals, I believe there are a few provisions of the bill that do not adequately protect a patient’s decision.

Specifically, I have serious concerns with the provisions of the bill that would effectively allow a patient’s wishes to be overridden by the patient’s physician or healthcare representative without the patient’s prior consent. In addition, while I agree that alternate dispute resolution should be an option for parties, I do not agree that it should be mandated as a prerequisite to a patient’s or his or her representative’s right to go to court to protect a patient’s wishes. Therefore, I recommend revising these provisions of the bill to further protect a patient’s health care wishes.

Accordingly, I herewith return Senate Committee Substitute for Senate Bill No. 2197 (First Reprint) and recommend that it be amended as follows:

Page 6, Section 7, Line 24: After "and" insert "after obtaining informed consent from"

Page 6, Section 7, Lines 24-25: Delete ", to the maximum extent practicable, acting in consultation with"

Page 6, Section 7, Line 25: After "or" insert ", if the patient has lost decision-making capacity,"

Page 6, Section 7, Line 26: After "representative" insert "in accordance with subsection d. of this section"

Page 6, Section 7, Line 40: After "d." delete "If a" and insert "The POLST form shall provide the patient with the choice to authorize the patient’s representative with the ability to revoke or
modify the patient’s POLST if the" 

Page 6, Section 7, Line 40: After “patient” delete “who has a completed POLST form has lost” and insert “loses” 

Page 6, Section 7, Line 41: After “capacity” delete “,” and insert “. If the patient authorizes the patient’s representative,” 

Page 6, Section 7, Line 42: After “time” delete “,” and insert “after the patient loses decision-making capacity and” 

Page 6, Section 7, Line 47: After “care.” Insert “If the patient does not authorize the patient’s representative to revoke or modify the patient’s POLST form, the patient’s representative may not revoke or modify the patient’s POLST form.” 

Page 7, Section 8, Line 14: After “(1)” delete “shall” and insert “may” 

Page 7, Section 8, Line 18: Delete “and” and insert “or” 

Page 7, Section 8, Lines 19-20: After “(2)” delete “upon a failure to resolve the disagreement in the manner set forth in paragraph (1) of this subsection,” 

Respectfully, 

/s/ Chris Christie 

[seal] 

Governor 

Attested: 

/s/ Kevin M. O’Dowd 

Deputy Chief Counsel to the Governor