CORRECTED COPY

EXECUTIVE ORDER NO. 112

WHEREAS, on February 3, 2020, through Executive Order No. 102 (2020), I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future, meaning we must take all possible

steps to expand our healthcare system's capacity to treat those who require emergency or intensive care; and

WHEREAS, as of March 31, 2020, according to the World Health Organization, there were over 750,000 confirmed cases of COVID-19 worldwide, with over 36,000 of those cases having resulted in death; and

WHEREAS, as of March 31, 2020, according to the CDC, there were over 163,000 confirmed cases of COVID-19 in the United States, with over 2,800 of those cases having resulted in death; and

WHEREAS, as of March 31, 2020, there were over 18,600 positive cases of COVID-19 in New Jersey, with at least 267 of those cases having resulted in death; and

WHEREAS, on March 23, 2020, through Executive Order No. 109 (2020), the facts and circumstances of which are adopted by reference herein, I suspended elective surgeries and invasive procedures, which necessarily draw upon the skill and time of critical healthcare professionals and involve the use of equipment and supplies that may be needed to treat those who are critically ill; required that all businesses and non-hospital healthcare facilities submit an inventory to the State of the Personal Protective Equipment ("PPE"), ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical healthcare services; and took other actions to protect and conserve the resources of our healthcare system, and limit unnecessary in-person contacts in healthcare settings, to more effectively combat the spread of COVID-19; and

WHEREAS, on March 28, 2020, through Executive Order No. 111 (2020), the facts and circumstances of which are adopted by reference herein, I ordered healthcare facilities to begin reporting daily data on their capacity and supplies, including bed capacity, ventilators, and PPE; and

WHEREAS, even as we suspend elective surgery and elective invasive procedures, the number of COVID-19 cases in New Jersey will likely require the skills and time of more healthcare professionals across the State, including, but not limited to physicians, physician assistants, advanced practice nurses, registered professional nurses, licensed practical nurses, and respiratory care therapists and others whose training and experience enable them to manage critically ill patients, perform essential invasive procedures, conduct diagnostic testing or render general medical care to patients presenting with non-COVID-19 emergencies, meaning we must take all possible steps to expand our healthcare system's capacity to treat those who require emergency or intensive care, while still meeting the ongoing urgent medical needs of our residents; and

WHEREAS, in addition to steps already taken by my Administration to expand access to telemedicine and telehealth and to facilitate temporarily the licensure of out-of-state healthcare professionals, it is in the public interest to expeditiously expand the supply of available and qualified healthcare professionals permitted to treat New Jersey patients, by temporarily reactivating the licenses of recently retired New Jersey healthcare professionals; by temporarily authorizing the practice in New Jersey of foreign doctors in good standing in other jurisdictions; and by facilitating the ability of appropriately credentialed healthcare professionals to safely prescribe controlled dangerous substances to New Jersey residents, notwithstanding certain existing requirements that would serve to delay or preclude such individuals from supporting the State's response to the COVID-19 outbreak; and

WHEREAS, it is in the public interest to expand the scope of practice of those healthcare professionals who under current law practice with individualized physician oversight, so that they can be deployed to meet the anticipated needs with more autonomy, greater

agility and with all necessary tools, including independent authority to prescribe controlled dangerous substances when appropriate; and

WHEREAS, despite the best efforts of our healthcare professionals and healthcare facilities, based on modelling of the spread of the virus and mortality rates elsewhere, we must position our morgues, mortuaries and cemeteries to handle an increase in the need for such services, and facilitate the provision of such services at a time when individuals have limited ability to leave their homes and a decedent's next of kin may themselves be quarantined; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, there are presently statutory provisions designed to safeguard the health and safety of the public, including by ensuring that healthcare professionals meet the highest standards before entering or reentering their fields, and that they practice together as members of a skilled team, and these provisions can, in a time of crisis such as this, thwart or delay our efforts to respond rapidly to emerging needs by establishing conditions and barriers that deprive the healthcare system of the agility to best utilize available resources in an effort to stem the spread of COVID-19, and avoid overwhelming the capacity of the system; and

WHEREAS, the Commissioner of Health has determined that the State needs the help of additional qualified health, mental health, and related professionals to supplement our healthcare capacity on a temporary basis; and

WHEREAS, on March 27, 2020, the Commissioner of Health launched a portal for healthcare professionals to identify themselves as willing and able to support New Jersey's response to the COVID-19 outbreak, as well as information that would allow a qualified

professional to be connected with opportunities suitable for someone with his or her skillset; and

WHEREAS, the Legislature enacted P.L.2020, c.4, to facilitate temporary licensure by reciprocity for out-of-state healthcare professionals, and the Department of Law and Public Safety, Division of Consumer Affairs ("DCA") has taken action to expedite licensure by reciprocity; and

WHEREAS, in light of the emergent need for the measures adopted herein and adopted previously to supplement the workforce by bringing in healthcare professionals who have not previously maintained liability coverage; by facilitating the deployment of retirees, out-of-state healthcare professionals, and foreign doctors; and by calling upon healthcare professionals to perform acts that they would not perform in the ordinary course of business, it is in the public interest to afford such individuals protection against liability for good faith actions taken in their efforts to offer assistance in response to the call to supplement the healthcare workforce; and

WHEREAS, pursuant to N.J.S.A. App. A:9-52, neither the State nor any political subdivision of the State under any circumstances, nor the agents, officers, employees, servants or representatives of the State or any political subdivision thereof, including all volunteers, in good faith carrying out, complying with, or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of the Disaster Control Act or performing any authorized service in connection therewith, shall be liable for any injury or death to persons or damage to property as the result of any such activity; and

WHEREAS, pursuant to N.J.S.A. 26:13-19, public entities and employees of public entities are granted broad immunity for any good faith acts or omissions in connection with a public health emergency, or preparatory activities, performed pursuant to any order, rule or regulation adopted in response to a public health emergency; and

WHEREAS, the immunity granted in N.J.S.A. 26:13-19 extends to private entities, including healthcare providers, for injuries caused by acts or omissions in connection with a public emergency, or preparatory activities, that are exercised in good faith and pursuant to any order, rule or regulation adopted in response to a public health emergency; and

WHEREAS, N.J.S.A. 45:9-27.18a contemplates that physician assistants may respond to a need for medical care created by an emergency or a State or local disaster by rendering care without the physician supervision that is ordinarily required, and provides a degree of immunity from liability for physicians and physician assistants for certain personal injuries resulting from such acts or omissions; and

WHEREAS, healthcare providers and facilities may be called upon to engage in acts or omissions that are critical to State's response to the unprecedented crisis related to the COVID-19 pandemic, but that may not have been contemplated by the Legislature when it enacted existing statutory immunity provisions; and

WHEREAS, the strict enforcement of certain statutory provisions that delay the State's efforts to rapidly respond to the spread of COVID-19 is detrimental to the public welfare; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The DCA is authorized to reactivate, on a temporary basis for the duration of the State of Emergency or Public Health Emergency, whichever is longer, the license of any healthcare professional previously licensed to practice in New Jersey who retired from active practice within the last five years, either by electing to place their license in inactive status or by allowing their license to lapse, provided that such healthcare professional submits an application on a form adopted by the Director of the DCA (the "Director") for such purpose and containing such information and certifications as the Director may require, and the Director or the relevant licensing board determines that such application should be granted. To facilitate the temporary reactivation of such healthcare professionals' licenses, the following statutory provisions are suspended and waived for the duration of the State of Emergency or Public Health Emergency, whichever is longer: the requirements of N.J.S.A. 45:1-7.4 pertaining to fees, affidavits of employment during the period of retirement, and proof of continuing education credits; and the requirements of N.J.S.A. 45:9-19.17 and N.J.S.A. 45:9-27.13a pertaining to liability insurance for physicians and physician assistants.

2. The DCA is authorized to issue a license to practice medicine and/or surgery, on a temporary basis for the duration of the State of Emergency or Public Health Emergency, whichever is longer, to any physician (including any medical doctor, doctor of osteopathic medicine, or the plenary-licensed equivalent in another country) who is licensed, in good standing, in another country, provided that such physician submits an application on a form adopted by the DCA for such purpose and containing such information and certifications as the Director may require, and the Director or the relevant licensing board determines that such application should be granted. At a minimum, the form shall require the applicant to certify that the applicant has engaged in practice for at least five years and has

engaged in clinical practice within the last five years. To facilitate the temporary licensure of such physicians, the following statutory provisions are suspended and waived for the duration of the State of Emergency or Public Health Emergency, whichever is longer: the requirements of N.J.S.A. 45:9-6 pertaining to examination for licensure; the requirements of N.J.S.A. 45:9-7 pertaining to premedical education; the requirements of N.J.S.A. 45:9-8 pertaining to additional education; the requirements of N.J.S.A. 45:9-12 pertaining to examination and other fees; and the requirements of N.J.S.A. 45:9-19.17 pertaining to medical malpractice insurance coverage.

3. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, the following statutory provisions that may serve to limit the scope of practice of advanced practice nurses are suspended and waived, and compliance with such provisions will not be required, for advanced practice nurses acting within the scope of their education, training, experience, and competence, to the extent that such provisions would otherwise require an advanced practice nurse to:

a. Enter into a joint protocol with an individual collaborating physician who is present or readily available through electronic communication (N.J.S.A. 45:11-49);

b. Include the name, address, and telephone number of a collaborating physician on prescriptions or orders (N.J.S.A. 45:11-49);

c. Review patient charts and records with the collaborating physician (N.J.S.A. 45:11-49); and

d. Obtain the authorization or written approval from a collaborating physician in order to dispense narcotic drugs for maintenance treatment or detoxification treatment or to determine the medical necessity for

services for treatment of substance use disorder (N.J.S.A. 45:11-49.3).

4. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, the following statutory provisions that may serve to limit the scope of practice of physician assistants are suspended and waived, and compliance with such provisions will not be required, for physician assistants acting within the scope of their education, training, experience, and competence, to the extent that such provisions would otherwise require a physician assistant to:

a. Obtain physician supervision (N.J.S.A. 45:9-27.15, N.J.S.A.45:9-27.16(b), N.J.S.A. 45:9-27.17, and N.J.S.A. 45:9-27.18);

b. Enter into a signed delegation agreement limiting the scope of practice to procedures enumerated in the agreement and customary to the supervising physician's medical specialty, delegated or explicitly authorized (N.J.S.A. 45:9-27.16);

c. Obtain authorization to order or prescribe a controlled dangerous substance (N.J.S.A. 45:9-27.19); and

d. Limit the assistance provided in the operating room (N.J.S.A. 45:9-27.16).

The provisions of N.J.S.A. 45:9-27.17 relating to physicians' supervisory responsibility are suspended and waived as they apply to both physicians and physician assistants, to the extent that they would otherwise apply, for the same duration.

5. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, any requirement to hold a controlled dangerous substance registration as a precondition for registering with the Prescription Monitoring Program (N.J.S.A. 45:1-46) is suspended and waived for any healthcare professional with prescribing

authority who is granted an expedited temporary license by the Director of the DCA and who holds a current valid registration with the U.S. Drug Enforcement Administration.

6. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, the written signature requirements of N.J.S.A. 45:7-85 and N.J.S.A. 45:7-95, pertaining to prepaid funeral agreements and authorization to commence funeral services, can be met by the provision of electronic signatures.

7. Any individual granted a temporary license, certificate, registration or certification to practice a healthcare profession or occupation in connection with the State's COVID-19 response, including those granted pursuant to paragraph 1 or 2 of this Order, shall be immune from civil liability for any damages alleged to have been sustained as a result of the individual's acts or omissions undertaken in good faith, whether or not within the scope of the licensee's practice, in the course of providing healthcare services in support of the State's COVID-19 response, whether or not such immunity is otherwise available under current law. Such immunity shall not extend to acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

8. Any individual holding a license, certificate, registration or certification to practice a healthcare profession or occupation in New Jersey, including but not limited to any advanced practice nurse or physician assistant acting outside the scope of their ordinary practice pursuant to paragraph 3 or 4 of this Order, shall be immune from civil liability for any damages alleged to have been sustained as a result of the individual's acts or omissions undertaken in good faith in the course of providing healthcare services in support of the State's COVID-19 response, whether or not within the scope of their practice and whether or not such immunity is otherwise available under current law. Such immunity shall not

extend to acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

9. Any healthcare facility, within the meaning of N.J.S.A. 26:13-2, any modular field treatment facility, and any other site designated by the Commissioner of the Department of Health for temporary use for the purpose of providing essential services in support of the State's COVID-19 response, including hotels and student dormitories, shall be immune from civil liability for any damages alleged to have been sustained as a result of an act or omission undertaken in good faith in the course of providing services in support of the State's COVID-19 response by one or more of its agents, officers, employees, servants, representatives or volunteers, if, and to the extent, such agent, officer, employee, servant, representative or volunteer is immune from liability, whether or not such immunity is otherwise available under current law. Such immunity shall not extend to acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

11. The immunity conferred by this Order applies to acts or omissions occurring at any time during the State of Emergency or Public Health Emergency, including acts or omissions occurring prior to issuance of this Order.

12. This Order shall take effect immediately.

GIVEN, under my hand and seal this 1st day of April, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor