EXECUTIVE ORDER NO. 123

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 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 and Prevention ("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, through Executive Order No. 119 (2020), which I signed on April 7, 2020, all Executive Orders, Administrative Orders, and actions taken by any Executive Branch departments and

agencies in whole or in part based on the authority under the Emergency Health Powers Act to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect; and

WHEREAS, as of April 8, 2020, according to the World Health Organization, there were more than 1,350,000 confirmed cases of COVID-19 worldwide, with over 79,000 of those cases having resulted in death; and

WHEREAS, as of April 8, 2020, according to the CDC, there were more than 395,000 confirmed cases of COVID-19 in the United States, with over 12,700 of those cases having resulted in death; and

WHEREAS, as of April 8, 2020, there were over 47,000 positive cases of COVID-19 in New Jersey, with at least 1,504 of those cases having resulted in death; and

WHEREAS, as of April 8, 2020, there were positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, the emergency public health measures implemented to combat COVID-19 are contributing to widespread interruptions and loss of income for many New Jersey consumers and businesses; and

WHEREAS, according to the New Jersey Department of Labor and Workforce Development, nearly 215,000 new unemployment claims were filed with the department for the week ending April 4, 2020 bringing the two-week total of new claims to almost 577,000; and

WHEREAS, on March 19, 2020, the Commissioner of Banking and Insurance issued Bulletin 20-04, which encouraged entities regulated by the Division of Insurance to assist policyholders affected by the COVID-19 outbreak by relaxing due dates, and allowing deferments and forbearances in a manner "consistent with prudent insurance practices"; and

WHEREAS, Bulletin 20-04 also encouraged entities regulated by the Division of Banking to assist persons affected by the COVID-19 outbreak by relaxing due dates, extending grace periods, and waiving late fees in a manner "consistent with safe-and-sound banking practices"; and

WHEREAS, an insurer may cancel an insured's coverage for failure to pay a health insurance premium following a "grace period," which periods are established by Titles 17 and 17B of the Revised Statutes, including but not limited to, a period of not less than 10 days for hospital service corporations (N.J.S.A. 17:48-6), medical service corporations (N.J.S.A. 17:48A-6), dental service corporations (N.J.S.A. 17:48C-8), and health service corporations (N.J.S.A. 17:48E-19); not less than 31 days for individual health insurance policies (N.J.S.A. 17B:26-6); and for the time specified in a group policy (N.J.S.A. 17B:27-37); and

WHEREAS, an insurer may cancel an insured's coverage for failure to pay a life insurance premium following a "grace period," which periods are established by Title 17B of the Revised Statutes, including but not limited to, a period of not less than 30 days for traditional life insurance (N.J.S.A. 17B:25-3), and in certain circumstances for account value life insurance policies not less than 60 days (N.J.A.C. 11:4-41.3); and

WHEREAS, an insurer may cancel an insured's coverage for failure to pay premium for property and casualty insurance following a "grace period," which periods are established by Title 17 of the Revised Statutes, including but not limited to, for other than personal automobile and workers' compensation, upon not less than 10 days' written notice to the insured (N.J.A.C. 11:1-20.2); for personal automobile insurance, upon not less than 15 days written notice to the insured (N.J.S.A. 17:29C-8, N.J.A.C. 11:3-7.6, and 11:3-8.11); and for workers' compensation insurance,

upon not less than 30 days' written notice to the insured (N.J.S.A. 17:29C-1); and

WHEREAS, an insurance premium finance company may cancel an insurance contract upon default, upon not less than 10 days written notice under N.J.S.A. 17:16D-13; and

WHEREAS, while currently health benefits plans generally include a grace period during which period the policy shall continue in force, in certain policies an extended grace period is available during which period claims may be pended and, if premium is not paid, become the policyholder's responsibility; and

WHEREAS, the statutory scheme described herein could result in the cancellation of health benefits, life insurance, or other types of insurance for New Jersey residents, at a time when many residents will require access to health care relating to COVID-19 and at a time when the health care system is extended; and

WHEREAS, it is necessary to replace these grace periods with extended "emergency grace periods" to prevent the loss of access to benefits and insurance during a Public Health Emergency; and

WHEREAS, for these reasons, among others, the strict enforcement of certain statutory provisions relating to insurance grace periods is detrimental to the public welfare; 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, pursuant to N.J.S.A. App. A:7-1, the Commissioner of the Department of Banking and Insurance has the power to make, alter, amend, and rescind rules and regulations imposing any condition upon the conduct of the business of any insurance company that may be necessary or desirable to maintain sound methods of insurance and to safeguard the interests of policyholders,

beneficiaries, and the public generally, during the period of an emergency; 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. All property and casualty insurance companies, life insurance companies, insurance premium finance companies, health insurance companies, health maintenance organizations, health service corporations and other entities issuing health or dental benefits plans in this State (collectively, "subject entities") shall not cancel during the emergency grace period any policy or contract as a result of nonpayment as defined as follows:

a. In the case of property and casualty insurance companies, life insurance companies, and insurance premium finance companies, for a period of at least 90 days, during which period claims shall be paid without regard to prior nonpayment of premium by the policyholder; and

b. In the case of health insurance companies, health maintenance organizations, health service corporations and other entities issuing health or dental benefits plans in this State, for a period of at least 60 days, during which period claims shall be paid without regard to prior nonpayment of

premium by the policyholder and the cost of which claim may not be recouped during or after the emergency grace period from the policyholder based upon the nonpayment of the premium.

2. The Commissioner of the Department of Banking and Insurance may extend these emergency grace periods further as necessary to protect the interests of policyholders, beneficiaries, and the public. Subject entities shall notify policyholders of this emergency grace period in a manner prescribed by the Commissioner. Subject entities shall further exercise any forbearances on collection documentation and other regulatory requirements as are prescribed by the Commissioner, including with respect to late fees, interest, or other charges associated with delays in premium payments.

3. At the conclusion of the emergency grace period, the policyholder's unpaid premium shall be amortized over a period of time as directed by the Commissioner.

4. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 17:16D-13, N.J.S.A. 17:29C-1, N.J.S.A. 17:29C-8, N.J.S.A. 17:48-6, N.J.S.A. 17:48A-6, N.J.S.A. 17:48C-8, N.J.S.A. 17:48E-19, N.J.S.A. 17:48E-24, N.J.S.A. 17B:25-3, N.J.S.A. 17B:25-18.2, N.J.S.A. 17B:26-6, N.J.S.A. 17B:27-37, N.J.S.A. 17B:27A-17, N.J.S.A. 17B:27A-24, N.J.A.C. 11:20 Appendices A and B, N.J.A.C. 11:21 Appendices F and G, N.J.A.C. 11:24-17.4, N.J.A.C. 11:4-41.3, N.J.A.C. 11:1-20.2, N.J.A.C. 11:3-7.6, N.J.A.C. 11:3-8.11, N.J.A.C. 11:21-7.8, N.J.A.C. 11:21-1.2, N.J.A.C. 11:21-7.3, N.J.A.C. 11:21-7.5, and N.J.A.C. 11:21-7.6, are suspended for the duration of this Public Health Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect.

5. The Commissioner of Banking and Insurance is directed to take all appropriate steps to effectuate this Order.

6. This Order shall take effect immediately.

GIVEN, under my hand and seal this 9th 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