EXECUTIVE ORDER NO. 181

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, and 180, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, and August 27, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

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

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, and Nos. 177-180 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State has taken and can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the opening of all retail businesses, and resumption of limited indoor recreation and outdoor dining; and

WHEREAS, because of our continued progress, most recreational and entertainment businesses can allow the public into their indoor spaces for activity, as long as there are strict capacity limits and individuals are wearing face coverings; and

WHEREAS, a limited number of indoor entertainment businesses still pose a higher risk of transmission of COVID-19 at this time, such as performance-based locations such as movie theaters, performing arts centers, other concert venues, and nightclubs, because those businesses necessitate individuals congregating together concurrently in one indoor location for a prolonged period of time, which is different than indoor retail settings, and even most recreational and entertainment businesses where individuals do not inherently spend a prolonged amount of time together in one location; and

WHEREAS, Executive Order No. 157 (2020) permitted certain recreation and entertainment businesses, including those businesses that offered fitness activities, to reopen subject to their compliance with specified health and safety protocols; and

WHEREAS, issuing health and safety protocols that apply to fitness activities that were previously permitted to resume can help ensure that these activities can continue to occur while minimizing the risk of COVID-19 transmission; and

WHEREAS, while gyms and fitness centers involve people congregating in a confined space and exercising, individuals are typically utilizing the facility for a short period of time, so that with strict mitigation protocols in place, safe operations can resume inside the facilities; and

WHEREAS, certain businesses that were permitted to resume operations were required to adopt policies and procedures that incorporated critical health and safety guidelines, including

through Executive Orders Nos. 122, 157, and 163 (2020), and which required that staff wear gloves at worksites; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has now advised that gloves should be worn in certain limited circumstances, such as when caring for a sick individual or while cleaning, but that frequent handwashing is generally the preferable method to maintain appropriate hand hygiene; 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. "Health clubs," as defined by N.J.S.A. 56:8-39, which include gyms and fitness centers, as well as amusement and water parks, can open their indoor premises as of 6:00 a.m. on Tuesday, September 1, 2020, provided that such businesses adopt policies that include, at minimum, the following requirements:

a. Limit occupancy of any indoor premises to 25 percent of the stated maximum capacity, if applicable, at one time, excluding staff;

b. Require that reservations, cancellations, and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider

populations that do not have access to internet service or credit cards;

c. Install a physical barrier, such as a shield guard, between customers and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;

d. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;

e. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

f. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

g. Provide employees break time for repeated handwashing throughout the workday;

h. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

i. Limit occupancy in restrooms and locker facilities that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

j. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

k. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

l. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

m. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

n. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness;

o. Continue to follow guidelines and directives issued by the New Jersey DOH, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe, and healthy work environment; and

p. Require workers and customers to wear cloth face coverings while in the indoor portion of the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age. Businesses must provide, at their expense, such face coverings for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline the individual entry into the indoor premises. This requirement shall not apply when wearing a face covering would inhibit that individual's health, including when in the water and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required

to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition.

2. Notwithstanding the provisions of Paragraph 1, above, health clubs, amusement parks, and water parks are permitted to open their indoor premises to the public only where they are in compliance with the health and safety guidelines and standards issued by the Commissioner of the DOH.

3. Recreational and entertainment businesses that provide fitness instruction and which were permitted to resume operations pursuant to Executive Order No. 157 (2020) must adhere to the protocols outlined in Paragraph 1 and to guidance issued by the Commissioner of Health.

4. Paragraphs 8 and 10 of Executive Order No. 157 (2020) are superseded to the extent that they are inconsistent with the provisions of this Order.

5. Any type of event at one of the above-described facilities that involves individuals who are there at a specific time, a specific location, and for a common reason, such as a fitness class at a gym or a birthday party at an amusement park, are subject to the applicable gathering limits, which were most recently laid out in Executive Order No. 173 (2020).

6. Businesses subject to the requirements of Executive Orders Nos. 122, 157, and 165 (2020) are no longer required to mandate that workers wear gloves on the premises or when in contact

with customers or goods. Such businesses may adopt policies that require staff to wear gloves, in addition to regular hand hygiene. Where a business requires its staff to wear gloves while at the worksite, the business must provide such gloves to staff. The specified businesses must ensure that staff practice regular hand hygiene when interacting with the public. Paragraphs 1 and 3 of Executive Order No. 122 (2020), paragraphs 1 and 7 of Executive Order No. 157 (2020), and paragraphs 1, 2, 3, 4, and 5 of Executive Order No. 165 (2020) are superseded to the extent that they are inconsistent with the provisions of this Order.

7. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

8. 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 Order.

9. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this 27th day of August, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor