EXECUTIVE ORDER NO. 110

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, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) 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, 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, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any 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 my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), the facts and circumstances of which are also adopted by reference herein, affirming the closure of all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools to students for as long as that Order remains in effect (the "school closure period"); and

WHEREAS, many, but not all, child care centers throughout the State have also elected to close in the wake of the present emergency; and

WHEREAS, child care settings can present difficulties in adhering to social distancing measures, necessitating closure of facilities during the emergency period that do not certify that they can meet the emergency child care standards created by the Department of Children and Families ("DCF"); and

WHEREAS, in order to address the urgent demands created by the present health emergency, providers of health care, emergency medical services, law enforcement, and other persons providing essential services require alternative child care arrangements during the period of school closures; and

WHEREAS, limiting access to child care facilities to essential persons wherever possible will help ensure that critical personnel can continue to effectively accomplish their jobs; and

WHERAS, these essential persons are a vital part of our response infrastructure and providing safe and accessible care for their children will improve our State's response to this emergency; and

WHEREAS, child care workers play a critical function in supporting the health, well-being and financial security of New Jersey's children and families; and

WHEREAS, the Commissioner of DCF has already executed a waiver to allow for flexible operating standards for child care facilities while maintaining the necessary or required health and safety standards; and

WHEREAS, in Executive Order No. 107 (2020), I authorized the Commissioner of the Department of Education to permit schools to remain open on a limited basis for educational or child care services if needed in emergency situations; and

WHEREAS, lack of available child care options for essential persons in the State has, and will continue to, impact the ability of essential entities and service providers to address the urgencies of the present pandemic; 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 Commissioner of DCF, in consultation with the Commissioners of the Departments of Education, Human Services, and Health, shall implement a plan permitting access to emergency child care services for the children of "essential persons." As part of that plan, DCF shall:

   a. Create and publish emergency child care standards that an Emergency Child Care Center must follow beginning Wednesday, April 1, 2020. The standards

shall detail the appropriate social distancing, hand washing, cleaning, and other public health prevention strategies that must be in place for Emergency Child Care Centers to operate; and

b. Create a certification form for current child care centers or other organizations wishing to stay open or resume operations as an Emergency Child Care Center on or after Wednesday, April 1, 2020, that includes a commitment both to provide child care services exclusively to "essential persons" during the school closure period and to follow all applicable emergency child care standards. The form shall also elicit information concerning the current child care center or organization's capacity to provide those services.

c. Both the standards and forms referenced in subsections (a) and (b) shall be available to the public on the Department of Children and Families' Internet website no later than Wednesday, March 25, 2020, at 5 p.m..

2. In order to be designated as an Emergency Child Care Center, any person or organization, requesting permission to stay open or resume operations on or after April 1, 2020, shall submit the certification form to the Commissioner of DCF for approval by Friday, March 27, 2020. If through the certification form the person or organization demonstrates that it will provide child care services exclusively to "essential persons" during the school closure period, and that it will follow all applicable emergency child care standards, the Commissioner DCF shall authorize it to remain open or resume operations as an Emergency Child Care Center.

3. Any "child care center", including those as defined in this executive order, that fails to timely certify shall be closed to the public as of Wednesday, April 1, 2020, and remain closed through the school closure period. Centers shall receive notice of the certification decision by the Commissioner of DCF by Monday, March 30, 2020.

4. Child care centers, for purposes of this Order, include entities providing care on a regular basis for children aged 0-13, including licensed child care centers. For the purpose of this Executive Order only, child care centers include those entities normally exempt from licensure under N.J.S.A. 30:5B-3(b)(2)-(5), & (7)-(8) & (11), and similar enterprises, but do not include programs funded or licensed by the DCF, the Department of Health, the Department of Human Services, or the Department of Education to provide specialized day care to youth with physical, intellectual, or developmental disabilities, or family child care homes registered pursuant to the Family Day Care Provider Registration Act, N.J.S.A. 30:5B-16 et seq..

5. For purposes of this Order, "essential persons" shall include, but not be limited to:

a. Health care workers, including staff working in health care facilities and in community-based services including home health and behavioral health;

b. Law enforcement personnel, fire and emergency services personnel, and staff at correctional facilities;

c. Individuals employed at emergency child care centers operating on or after April 1, 2020;

d. Staff working for entities that provide essential social services, including, but not limited to, group home and shelter staff;

e. Essential government employees who are unable to work from home, including child protection services workers, child welfare workers, foster care workers, unemployment compensation processing staff, and public health employees; and

f. Certain critical workers, as defined by the Commissioner of DCF, at essential retail businesses, as defined in Executive Order No. 107 (2020) and subsequent Administrative Orders.

The Commissioner of DCF, in consultation with the State Director of Emergency Management, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list taking into account both demonstrated need and the capacity of Emergency Child Care Centers.

6. By Friday, April 3, 2020, the State Director of Emergency Management ("Director"), in consultation with the Commissioners of Education and DCF and local county officials, shall evaluate whether there are sufficient emergency child care centers open in each county to meet the needs of essential persons. For any county where the Emergency Child Care Centers cannot meet the demand for essential persons, the Director shall direct the applicable county office of emergency management, in consultation with the applicable county office of education, to identify schools in the county that are capable of serving as emergency child care sites for children ages 0-13. The Commissioners of Education and DCF shall proffer standards for review of the identified schools. Upon approval by the Commissioner of Education and the Commissioner of

DCF, such schools are authorized to provide emergency child care to and/or supplementary educational activities for children enrolled in schools within that county, but may only serve the children of essential persons. Such schools may engage a third-party provider to deliver the emergency child care services. The Director is authorized to establish dates for submission of the above information from county offices and, in consultation with the Commissioners of Education and DCF, establish requirements and guidance for those submissions.

7. The Commissioner of DCF is hereby authorized to issue additional requirements and guidance to provide for the creation, approval, operation, staffing, monitoring, inspection, investigation, oversight, and immediate closure of Emergency Child Care Centers and emergency child care sites.

8. The Commissioner of DCF, in consultation with the Commissioners of Education, Human Services, and Community Affairs and the Director, are hereby authorized to identify sources of funding for such programs.

9. The Commissioner of DCF is hereby further authorized to temporarily suspend or modify any existing regulation applicable to licensed, approved, or exempt child care programs to the extent necessary to provide for the creation, operation, and sufficient availability of emergency child care programs consistent with this Order.

10. Any actions taken by the Commissioner of DCF pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq..

11. 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.

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

13. 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 Executive Order No. 110 (2020), or which will or might in any way interfere with or impede its achievement.

14. 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 25th day of March, 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