EXECUTIVE ORDER NO. 149

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 and 138 (2020), issued on April 7, 2020, and May 6, 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 ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-148 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in an effort to reduce exposure of children, staff, and parents to COVID-19, I issued Executive Order No. 110 (2020), which required child care centers to close unless they could comply with heightened health and safety standards and would agree to solely service the children of essential workers; and

WHEREAS, emergency child care centers have operated since that time to service those individuals, and continue to operate; 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 can begin to take certain 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, in order to support the expanded reopening of business operations in the State, we must ensure that our workforce has, in turn, expanded access to child care services with appropriate safeguards for children and staff; and

WHEREAS, the health and safety standards currently in effect for emergency child care centers helped to prevent significant spread of COVID-19 throughout the child care community, and must remain in place, subject to certain updates and revisions, as additional centers become operational; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments deemed

non-essential, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146, and 147 (2020), which authorized the openings of parks, beaches, lakefronts, and several outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention (CDC), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 148 (2020) to allow for additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts; and

WHEREAS, youth summer camps provide our workforce with necessary alternatives to child care; and

WHEREAS, as with child care centers, heightened health and safety protocols can be instituted for summer camps to ensure an environment that would limit spread of COVID-19; and

WHEREAS, overnight camps would have immense difficulty in enforcing social distancing protocols, particularly with regards to sleeping arrangements, meaning that they cannot be permitted to operate at this time; and

WHEREAS, while Executive Order No. 148 (2020) prohibited organized or contact sports in outdoor gatherings, organized sporting activities that do not involve contact or individuals routinely interacting in close proximity can safely proceed in outdoor settings; 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. Executive Order No. 110 (2020) is hereby rescinded effective at 6:00 a.m. on June 15, 2020.

2. The Commissioner of the Department of Health, pursuant to her authority under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., and in consultation with the Commissioners of the Departments of Children and Families ("DCF") and Human Services (DHS), shall impose Standards for COVID-19 Related Health and Safety Applicable in New Jersey Child Care and Youth Summer Camp Settings ("COVID-19 Child Care and Youth Summer Camp Standards"). These Standards shall supersede previous guidelines applicable to emergency child care centers, and shall detail the appropriate social distancing, hygiene, cleaning, and other public health prevention strategies applicable in child care centers and other child care facilities and youth summer camps. The Standards imposed by the DOH may be informed by or incorporate guidelines issued by the Commissioner of DCF for child care centers.

3. "Child care centers," for purposes of this Order, shall mean any facility defined as a child care center pursuant to N.J.S.A. 30:5B-3. Nothing in this Order shall affect such child care centers' obligations under N.J.S.A. 30:B-1, et seq.

4. "Other child care facilities," for purposes of this Order, are defined as those facilities described in N.J.S.A. 30:5B-3(b)(2), (3), (7), (8), and (11).

5. "Youth summer camps," for purposes of this Order, shall include youth day camps required to be licensed pursuant to N.J.S.A. 26:12-1 et seq., facilities operating programs as described in N.J.S.A. 30:5B-3(b)(4), and other entities that provide daily multi-hour programming for youths, without regard to whether the program is subject to the certification requirements pursuant to N.J.S.A. 26:12-1 et seq., including youth programs operated by municipal agencies.

6. Effective 6:00 a.m. on June 15, 2020, child care centers and other child care facilities are permitted to resume operations for all clients, provided that they comply with the COVID-19 Child Care and Youth Summer Camp Standards and other applicable statutes, regulations, and Executive Orders. Each child care center and other child care facility must submit an attestation to the DCF no later than 24 hours prior to the anticipated opening date, or in the case of currently operating emergency child care centers, within fourteen days of the effective date of this Order, attesting that it will follow all applicable health and safety standards, as detailed in the COVID-19 Child Care and Youth Summer Camp Standards. Those child care centers and other child care facilities that were authorized to remain open pursuant to Executive Order No. 110 (2020) as emergency child care centers are not exempt from this requirement and must also submit an attestation to the DCF.

7. Nothing in this Order shall prevent child care centers and other child care facilities from engaging in pre-operational activities prior to June 15, 2020.

8. Youth summer camps shall be permitted to operate on or after Monday, July 6, 2020, provided that they comply with the COVID-19 Child Care and Youth Summer Camp Standards and other applicable statutes, regulations, and Executive Orders. Youth summer camps that wish to operate on or after July 6, 2020, must submit an attestation to the Department of Health no later than 24 hours prior to the anticipated opening date, attesting that they will follow all applicable health and safety standards, as detailed in the COVID-19 Child Care and Youth Summer Camp Standards, and subject to other restrictions imposed by Executive Order.

9. Youth camp operators, as defined by N.J.S.A. 26:12-3, wishing to operate a youth camp on July 6, 2020, may do so only if they have submitted an application for a certificate of approval, or renewal thereof, to operate the camp, as required by N.J.S.A. 26:12-6 and -7, by June 15, 2020. Those youth camp operators wishing to commence operations of a youth camp after July 6, 2020, may do so only if they have submitted such an application at least fourteen days prior to the start date.

10. Residential and overnight camps are prohibited from operating, although nothing in this Order shall be construed to prevent youth from staying overnight at recreational campgrounds operating in accordance with Executive Order No. 148 (2020), to the extent such overnight stays are otherwise permitted.

11. Nothing in this Order shall prevent youth summer camps from engaging in pre-operational activities prior to July 6, 2020.

12. Any child care center, child care facility or youth summer camp that fails to adhere to the COVID-19 Child Care and Youth Summer Camp Standards is subject to closure by the Commissioner of the Department of Health pursuant to N.J.S.A. 26:13-8.

13. The provision in Paragraph 1(e) of Executive Order No. 148 (2020) prohibiting organized or contact sports is hereby rescinded effective June 22, 2020, insofar as it applies to sporting activities in outdoor settings that do not involve person-to-person contact or routinely entail individuals interacting within six feet of one another. At that time, sporting activities, including organized sporting activities, are permitted in outdoor settings only, provided that they do not involve person-to-person contact or routinely entail individuals interacting within six feet of one another. Any sporting activities that involve person-to-person contact or individuals routinely interacting in close proximity (within six feet of one another) will remain prohibited in any setting. The Commissioner of the Department of Health, pursuant to her authority under the EHPA, N.J.S.A. 26:13-1 et seq., shall impose health and safety standards regarding sporting activities before that date, and such activities must comply with all applicable laws, regulations, and Executive Orders, including restrictions on gatherings in place at the time the sporting activities occur. No part of this Paragraph shall be construed to restrict the ability of professional athletes to fulfill their job duties, pursuant to Paragraph 7 of Executive Order No. 148 (2020), and no part of this Paragraph shall be construed to restrict the ability of United States national team athletes or athletes training at United States National Team Training Centers to conduct their training activities.

14. High school sporting activities under the jurisdiction of the New Jersey State Interscholastic Athletic Association ("NJSIAA") may resume in accordance with reopening protocols issued by NJSIAA, which shall consider DOH guidance in issuing these protocols. However, these high school sporting activities cannot resume any earlier than June 30, 2020.

15. The provision in Paragraph 9 of Executive Order No. 107 (2020) closing recreational and entertainment businesses to the public, is hereby superseded to the extent that it would prevent youth summer camps or sporting activities from operating in accordance with Paragraphs 13 or 14 of this Order.

16. The provisions in Paragraphs 3(e) of Executive Order No. 133 (2020), 3(h) of Executive Order No. 143 (2020), and 1(e) of Executive Order No. 148 (2020) are hereby superseded to the extent that they would prevent organized sporting activities from occurring.

17. The provisions in paragraphs 12 and 13 of Executive Order No. 107 (2020), paragraph 8 of Executive Order No. 148 (2020), and paragraph 1 of Administrative Order No. 2020-12 are hereby superseded to the extent that they prohibit youth summer camps and sporting activities from taking place in or on the premises of public or private schools.

18. Any actions taken by the Commissioner of the Department of Health 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.

19. 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.

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

21. 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. 149 (2020), or which will or might in any way interfere with or impede its achievement.

22. 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 the Department of Health as appropriate.

GIVEN, under my hand and seal this 29th day of May, 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