Accordingly, the City of Daytona Beach, having initially issued a certificate of competency to a general contractor, is no longer concerned with regulating his performance so long as the contractor evidences activities in his trade by annually paying the revenue tax imposed by the city through its occupational license fee of $60. See Tamiami Trail Tours, Inc. v. City of Orlando (Fla. 1960), 120 So.2d 170.

As to subcontractors, by the information supplied us, they have no licensing requirements imposed, and thus, in the absence of regulating a subcontractor's performance, this, too, must be considered as being a revenue tax, rather than licensure. Cf. Tamiami Trail Tours case, above.

I refrain from rendering any opinion as to the propriety of the fee set by the commissioners of the North Peninsula Zoning Commission. This is a discretionary responsibility exercised under their quasi-legislative authority provided in § 2, Ch. 61-2971, Laws of Florida. See § 120.021(2), F. S.; Meiklejohn v. American Distributors, Inc. (1 Fla.App.1968), 210 So.2d 259, 264. However, as a guideline to the amount which might be set as a fee, the licensing fee can include the cost of administering the licensing program, issuance and renewal, supervision of the trade activities within the area controlled by the Commission, and all other incidental public expenses likely to follow from such business, occupation or trade so licensed by the authority to such an extent that the licensing program and fees imposed thereunder are not extended into a purely revenue-producing activity of the Commission. See State ex rel. Reynolds v. City of St. Petersburg (Fla.1938), 122 Fla. 366, 183 So. 304, 118 A.L.R. 667; Atkins v. Philips (1890), 26 Fla. 281, 8 So. 429; and City of Jacksonville v. Ledwith (1890), 26 Fla. 163, 7 So. 885.

Thus, insofar as § 20, Ch. 61-2971, Laws of Florida, places a limitation upon the fees set by the Zoning Commission, I suggest that the Zoning Commission avoid any situation which would indicate that its fees are based solely upon the fees for the revenue tax program of the City of Daytona Beach. Your question is answered accordingly.

HEALTH AND MEDICAL CARE PROGRAMS

PHYSICIANS' SERVICES—PAYMENTS; DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

To: James A. Bax, Secretary, Department of Health and Rehabilitative Services, Jacksonville

QUESTIONS:

1. Do the provisions of § 1, item 777, Ch. 69-100, Laws of Florida, implementing Title IX and Title XIX of the Social Security Law for the period of Jan. 1, 1970-June 30, 1970, limit payments for physicians' services to those payments made by the department of health and rehabilitative services for such services?

2. Does the prohibition against payment of physicians' services for routine physical and eye examinations as appears in § 1, item 777 of Ch. 69-100, Laws of Florida, apply to physical and eye examinations related to diagnostic or therapeutic examinations by physicians?

AS TO QUESTION 1:

I am advised of your concern as to whether the department of health
and rehabilitative services may enter into cooperative payment and referral arrangements with other state agencies responsible for, or involved in, health and rehabilitative services as required by § 1902(a) (11)(A)(B) of the federal social security act.

On Oct. 22, 1969, by letter addressed to U. S. Department of Health, Washington, D. C., the Attorney General advised that pursuant to Ch. 69-106, Laws of Florida, the department of health and rehabilitative services is the single agency of the state designated to administer resulting departments under programs of Title XIX of the social security act, as amended.

Programs of reorganization of the executive branch of state government authorized by the 1969 Legislature are the recipients of appropriations necessary to accomplish the purposes of such reorganization, § 16, Ch. 69-100, Laws of Florida. With reorganization of the executive branch, all health and medical care programs administered by the state department of public welfare under Ch. 409, F. S., were transferred to the department of health and rehabilitative services, § 19, Ch. 69-106, Laws of Florida (§ 20.19, F. S.)

Since the function of all agencies of the State in providing health and medical care programs to recipients under Ch. 409, F. S., by the state department of public welfare has been transferred to the department of health and rehabilitative services, the department as reorganized is the sole agency authorized to make payments for such services, and need for contract between the department of health and rehabilitative services and any other state agency to provide such services no longer exists. Question 1 is answered in the affirmative.

AS TO QUESTION 2:

When doubt exists as to the meaning of a statute, the purpose for which it was enacted is of primary importance in its interpretation. United Bonding Ins. Co. v. Tuggie, 216 So.2d 80.

In construing statutes, a court will consider not only language or words used in a statute, but also its history, its legislative setting, subject matter on which statute operates, the evil to be corrected and the objects to be obtained, all of which are as much a part of the law as the words themselves. Dade Federal Sav. & Loan Ass'n v. Miami Title & Abstract Division of American Title Ins. Co., 217 So.2d 873.

The obvious purpose of the legislature was to assure that funds appropriated were used to provide necessary medical treatment for the sick, infirm, and disabled persons qualified for assistance under applicable state laws implementing Title XIX of the federal social security act.

It is my opinion that the legislature intended to limit the use of funds appropriated for physicians' services to the payment for such services in connection with diagnostic or therapeutic treatment, as distinguished from the routine annual physical checkup had by many individuals, and thus channel appropriated funds to provide physicians' services most needed by recipients under the program. Question 2 is answered in the negative.

069-124—December 9, 1969

PUBLIC HEALTH, WELFARE, AND MORALS

SUNDAY CLOSING LAWS—AUTHORITY TO ENACT—STATE, COUNTIES, AND MUNICIPALITIES

To: Bill Gunter, State Senator, Orlando