§ 3606. Establishment of certified home health agencies. 1. The commissioner shall not issue a certificate of approval to any home care services agency except with the written approval of the public health and health planning council. However, a residential health care facility or hospital making application to the commissioner solely for authorization to provide a long term home health care program shall be deemed to have met such requirement, provided that the facility or hospital possesses a valid operating certificate under article twenty-eight of this chapter.

2. An application for approval of the proposed certified home health agency shall be filed with the public health and health planning council together with such other forms and information as shall be prescribed by, or acceptable to, the public health and health planning council. Thereafter, the public health and health planning council shall forward a copy of the proposed application for establishment and accompanying documents to the health systems agency, if any, having geographical jurisdiction of the area where the services of the proposed certified home health agency are to be offered. The public health and health planning council shall act upon such application after the health systems agency has had a reasonable time to submit its recommendations. At the time members of the public health and health planning council are notified that an application is scheduled for consideration, the applicant and the health systems agency shall be so notified in writing. The public health and health planning council shall not take any action contrary to the advice of the health systems agency until it affords to the health systems agency an opportunity to request a public hearing and, if so requested, a public hearing shall be held. If the public health and health planning council proposes to disapprove the application it shall afford the applicant an opportunity to request a public hearing. The public health and health planning council may hold a public hearing on the application on its own motion. Any public hearing held pursuant to this subdivision may be conducted by the public health and health planning council or by any individual designated by the public health and health planning council.

The public health and health planning council shall not approve an

application for establishment unless it is satisfied, insofar as applicable, as to (a) the public need for the existence of the certified home health agency at the time and place and under the circumstances proposed; (b) the character, competence, and standing in the community, of the proposed incorporators, directors and sponsors; (c) the financial resources of the proposed certified home health agency and its sources of future revenues; and (d) such other matters as it shall deem pertinent.

Neither the tax status nor profit-making status of proposed certified home health agencies shall be criteria for establishment.

3. An application for establishment by a home care services agency in existence and operating on the effective date of this section shall be acted upon by the public health council within twelve months of the submission of such application.

4. (a) The commissioner shall charge to applicants for the establishment of certified home health agencies an application fee of two thousand dollars.

(b) An applicant for both establishment and construction of a certified home health agency shall not be subject to this subdivision and shall be subject to fees and charges as set forth in section thirty-six hundred six-a of this article.

(c) The fees and charges paid by an applicant pursuant to this subdivision for any application approved in accordance with this section shall be deemed allowable costs in the determination of reimbursement rates established pursuant to this article. All fees pursuant to this section shall be payable to the department of health for deposit into the special revenue funds - other, miscellaneous special revenue fund - 339, certificate of need account.