

Statement of Basis and Purpose for a Model Law Authorizing Recycling of Cremation Residue and Prohibiting the Payment of Compensation to a Crematory

Adopted by the NFDA Policy Board October 6, 2012

There has been a growing interest in recycling metals and other materials that can be recovered from the remnants of implanted medical devices and dental work following cremation. With increases in the cremation rate, the number of individuals with implanted medical devices, the use of valuable and rare metals in these medical devices, and the technology for recovering and recycling metals and materials, demand for recycling remnants following the cremation process is skyrocketing. Unfortunately, states either have no laws or inadequate laws that govern how recycling of post-cremation remnants may be undertaken.

The NFDA Policy Board has examined the legal and ethical considerations governing the recycling of metals and other materials following cremation. It is the position of the NFDA Policy Board that the following principles should be part of any model law governing the recycling of metals and materials after cremation:

- **Authorizing Agent.** The agent making the decision regarding cremation should also make all decisions regarding the disposition of metals and other materials that may remain after the cremation process. Unless the authorizing agent directs otherwise, all remnants from the cremation process, other than the cremated remains of the decedent, should be disposed of in a non-recoverable manner that is in compliance with all applicable laws.
- **Consent.** Recycling is in the public interest and should be encouraged. However, recycling of metals and materials following cremation may only be done upon the written consent of the authorizing agent. Any such consent shall provide all necessary information so that the authorizing agent makes an informed decision regarding the recycling process.
- **No Compensation.** Funeral homes and crematories shall not be paid any compensation by recycling companies or others for metals and materials that are recovered following the cremation process. To the extent that recycling companies pay compensation for the recovered metals and materials provided to it, all such compensation should be donated to a charitable organization that is tax-exempt under the laws of the United States.

NFDA's Model Law Authorizing Recycling of Cremation Residue and Prohibiting the Payment of Compensation to a Crematory embraces these principles and is attached to this statement of basis and purpose.

Model Law Authorizing Recycling of Cremation Residue and Prohibiting the Payment of Compensation to a Crematory

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- (A) Restrictions Prior to Cremation. Prior to cremation, a funeral home or crematory shall not remove from a dead human body any dental bridge work or fillings, medical devices, prostheses, body parts, or any implanted items of value without the specific written instructions executed by the authorizing agent and designating the disposition of such items in accordance with Sections (B) through (D) below.
- (B) Disposition of Cremation Residue. Unless an alternate form of disposition is designated by the authorizing agent pursuant to Section (C) or Section (D) below, any residue recovered from the cremation chamber, other than cremated remains, shall be properly disposed of in a non-recoverable manner in accordance with all applicable laws.
- (C) Return of Cremation Residue. The authorizing agent may provide written and signed instructions to recover particular items from the cremation residue that, provided such items can be identified and recovered by the crematory in a safe and reasonable manner, shall be returned to the custody of the authorizing agent or delivered to the designee of the authorizing agent. All other cremation residue shall be disposed of under Section (B) unless recycling is authorized in accordance with Section (D).
- (D) Recycling of Cremation Residue. Any materials recovered from the cremation residue may be recycled by the crematory if recycling is authorized in accordance with a written consent executed by the authorizing agent. A crematory that is involved in recycling cremation residue shall not receive any fee or anything of value in exchange for the recycled materials. Notwithstanding this restriction, a crematory may designate one or more charitable organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code to receive any consideration paid by a recycling company for the recycled materials provided by the crematory. The consent of the authorizing agent, which may be part of the cremation authorization form or the subject of a separate consent form, shall contain the following:
- (1) A disclosure informing the authorizing agent that by executing the consent, the authorizing agent is approving the recycling of metals, ceramics, or other materials that are capable of being recovered after cremation from implanted medical devices, dental bridge work and fillings, prostheses, jewelry or other items that were in or on the body. The disclosure shall state that the authorizing agent acknowledges that such materials shall be collected by the crematory after the cremation process, compiled with other materials recovered from other cremations, and shipped to a recycling company by the crematory.
 - (2) A disclosure informing the authorizing agent whether the recycling company is paying a fee or anything of value in exchange for the recycled materials. If a fee or anything of value is paid by the recycling company, the consent form shall disclose that the crematory has designated one or more charitable organizations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code to receive such fees paid by the recycling company. The name and address of each such designated charitable organization shall be identified in the consent form.
- (E) Restrictions on Compensation. A crematory or funeral home carrying out the disposition of a dead human body shall not receive anything of value in exchange for materials or items removed from a dead human body or from the cremation residue.