

S.W.S.T. Code  
 Amendment  
 New Adoption  
 Judicial Approved  
05-07-97  
 Council Adopted  
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SISSETON-WAHPETON SIOUX TRIBE  
 CHAPTER 4-A  
 TRIBAL CONTRACEPTIVES CODE

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**4A-01-01 TITLE**

**4A-01-02** This code shall be known and commonly cited as The Sisseton-Wahpeton Tribal Contraceptives Code.

**4A-02-01 PURPOSE**

**4A-02-02** The purpose of the Contraceptives Section of the Health Code is to authorize minor Indians to give effective consent to access and receive non-surgical contraceptives, without parental consent, to avoid pregnancy and sexually transmitted diseases.

**4A-03-01 DEFINITIONS**

**4A-03-02** Contraceptive or Contraception means a safe, clinically tested method to prevent pregnancy and/or sexually transmitted diseases that is approved by the Food and Drug Administration (FDA).

**4A-03-03** Minor Indians means those individuals under the age of eighteen whose parent or legal guardian is a member of the Sisseton-Wahpeton Sioux Tribe and those non-member Indians under the age of eighteen who are otherwise qualified to receive services from the Indian Health Service (IHS).

**4A-03-04** Non-surgical Contraceptive means a non-surgical, safe and clinically tested method to prevent pregnancy and/or sexually transmitted diseases that is approved by the FDA, including, but not limited to, condoms, oral contraceptives, diaphragms, foam, depo-provera, and intra-uterine devices (IUD's).

**4A-03-05** Professional Staff means a physician, physician's assistant or a nurse practitioner employed by a provider.

**4A-03-06** Provider means only the Sisseton-Wahpeton Sioux Tribe or the Indian Health Service.

**4A-04-01 FINDINGS**

**4A-04-02** According to surveys, minor Indians are sexually active. Approximately one(1) in four (4) babies are born to a teenage mother. The infant mortality rate for Native Americans in the Northern Plains is twice the national rate. Minor Indians maintain a higher risk of acquiring sexually transmitted diseases than non-Indians. An untreated sexually transmitted disease may sterilize the minor Indian.

**4A-05-01 APPLICATION**

**4A-05-02** The Contraceptives Section of the Health Code applies to those individual under the age of eighteen whose parent or legal guardian is a member of the Sisseton-Wahpeton Sioux Tribe and those non-member Indians under the age of eighteen who are otherwise qualified to receive services from the IHS. Providers are prohibited from providing contraceptives to minor children who are not qualified to receive services from the IHS.

**4A-06-01 PARENTAL RIGHTS**

**4A-06-02** Parents of minor Indians who desire to forbid their child from obtaining non-surgical contraception without their consent shall file a signed statement with the IHS Medical Records Office which provides: (i) the name of the minor child, (ii) a short statement that the minor Indian may not obtain non-surgical contraception from a provider without the consent of one (1) or both parents or legal guardian, and (iii) the signature of the parent or guardian. The IHS Medical Records Office may establish a form for use with this Section and distribute such form to the providers.

**4A-07-01 PROVIDERS**

**4A-07-02 NON-SURGICAL CONTRACEPTIVE**

**4A-07-03** Only non-surgical contraceptives may be provided to minor Indians, including, but not limited to, condoms, oral contraceptives, diaphragms, foam, depo-provera and IUD's. Surgical means of contraception is not available to minor Indians without the consent of the minor's parent or legal guardian. All non-surgical contraceptives to be made available to minor Indians must be approved by the FDA.

**4A-07-04 DISTRIBUTION**

**4A-07-05** This section only authorizes the contraceptives, according to the provisions of this Code, at the IHS. Only the professional staff of a provider may distribute contraceptives to minor Indians. Professional staff are not authorized to delegate any duty, responsibility or obligation provided by this Code to non-professional.

**4A-07-06 EXAMINATION, INFORMATION AND CHECK-UP**

**4A-07-07** In order for minor Indians to obtain contraceptives from providers, a professional staff member must examine the child in accordance with all standards of good clinical practice, including but not limited to, the clinical history, laboratory testing, and, only when necessary, physical examinations. The professional staff member shall provide information regarding the precautions that must be taken, the risks associated with contraception, and any possible side effects. The professional staff member shall schedule a routine check-up with the minor Indian and monitor the use of the contraceptive.

**4A-07-08 VERIFICATION THAT MINOR IS QUALIFIED TO RECEIVE SERVICES FROM THE IHS**

**4A-07-09** A provider shall verify that the minor is the child of a Tribal member or is otherwise qualified to receive services from the IHS. The provider shall verify that the minor child has a record at the IHS. If the minor is a child of a Tribal member, the minor shall be required to provide the name of her or his parents and/or legal guardian to the provider and the provider shall verify that the parent and/or legal guardian is on the Tribal membership roll. The Tribal Secretary shall provide the Tribal membership roll, with updates, to the providers. The Tribal membership roll shall be considered confidential information and shall not be used by any provider in a manner which is inconsistent with this Code.

**4A-07-10 CONFIDENTIAL RECORDS**

**4A-07-11** A provider who distributes contraceptives to minor Indians shall keep a record of (i) the minor Indian, (ii) the contraceptives distributed, (iii) a description of the information explained to the minor Indian, (iv) verification that the parent of the minor Indian has not notified the provider of her or his objection to the distribution of contraception, (v) a description of the examination, and (vi) the date of a scheduled check-up. All records kept

by providers shall remain confidential and accessible only by the minor Indian and the parent or legal guardian of the minor Indian.

**4A-08-01 CONSTRUCTION**

**4A-08-02** This Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Ordinances, Resolutions, and Regulations of the Sisseton-Wahpeton Sioux Tribe.

**4A-09-01 AMENDMENT**

**4A-09-02** This Code may be amended only upon an affirmative vote of a majority of the Tribal Council of the Sisseton-Wahpeton Sioux Tribe at a regular or specially held meeting of the Tribal Council.

**4A-10-01 EFFECT OF HEADINGS**

**4A-10-02** Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Code.

**4A-11-01 SEVERABILITY**

**4A-11-02** If any clause, sentence, paragraph, section or part of this Code shall, for any reason, be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.