



Human Resources
Professionals
Association

The costs and obligations of professionhood

November 9, 2016



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Human Resources Professionals Association

Office of the Registrar Fall 2016 webinar series



Wednesday,
October 12, 2016

What to do When the Complaint is About You

Thursday,
October 20, 2016

Let's Talk About... The Public Interest

Thursday,
October 27, 2016

Self-regulation: Why it is important, why should you care, and what it should mean to you?

Friday,
November 4, 2016

The Registered Human Resources Professionals Act, 2013:
The first three years

Wednesday,
November 9, 2016

The costs and obligations of professionhood

Thursday,
November 17, 2016

Update on the new CHRP, CHRL, and CHRE certification processes

Housekeeping

- Webinar will be recorded and posted online
- CPD code will be given at end of webinar
- Will post answers to questions that we could not answer in the webinar



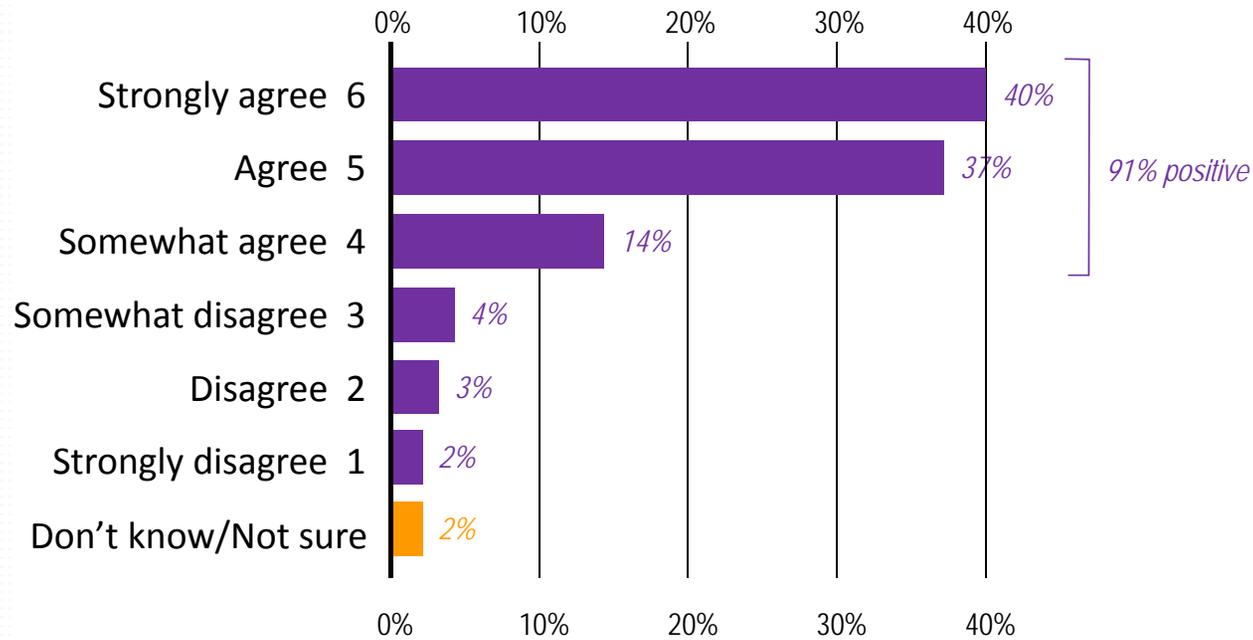
Questions involving specific individual circumstances



- This webinar is not the appropriate place and time to address specific individual circumstances
- Sometimes the correct answer depends on some details that are not provided with the question
- Please contact the Office of the Registrar with questions involving specific individual circumstances



“Do you agree that the professionalization of HR is, or should be, an important issue for the profession?”



Source: 2013 HRPA Member Survey

What are the benefits of professionalization for HR professionals?



Selfish benefits

- Legitimacy
- Better remuneration
- More status
- More power
- More respect
- More influence

'Noble' benefits

- Empowers the HR profession to make the greatest contribution to society it can make

But what do we have to give to get?



- It's not all enhanced status, legitimacy, remuneration, and influence
- We have to give to get
- Let's have a look at the other side of the equation

Agenda



- What does it mean to ‘professionalize?’
- Professionhood as a social contract
- The role of professional regulatory bodies in living up to the social contract
- What we give and what we get
- Costs and obligations of professionhood and voluntary professions
- Internalization of the social contract

Q: What does it mean to professionalize?



A: To adopt the characteristics of established professions

- Its not only a matter of mimicking established professions at the surface, it is also means **adopting the values, attitudes, and mindset of established professions**
- It means **taking on the costs and obligations of professionhood**

Professionhood



- *Professionhood* is a seldom used word, but it does exist—it refers to the state of being a profession or a professional and the responsibilities involved
- *Professionhood* has implications at the collective (i.e., the HRPA) and the individual levels (i.e., members)

Social contract



“In Canada and the United States the social basis of the extraordinary grant of occupational authority and independence to professionalized occupations such as medicine and law has been a social contract between the profession and the public. Professionalism is the moral understanding among professionals that gives concrete reality to this social contract. It is based on mutual trust. In exchange for a grant of authority to control key aspects of their market and working conditions through licensing and credentialing, professionals are expected to maintain high standards of competence and moral responsibility. The work of the traditional learned professions has long been understood to require a significant domain of discretion in individual practice. It has therefore been thought to require a stronger sense of moral dedication than most occupations. A professional is not required to ignore material considerations but is expected to subordinate financial gain to the higher values of responsibility to clients and to the public interest.”

Sullivan (2000)

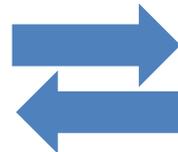
Social contract



Give

Professionals are expected to maintain high standards of competence and moral responsibility
(in other words, *professionalism* and moral dedication)

The Profession



The Public

Get

In exchange for a grant of authority to control key aspects of their market and working conditions through licensing and credentialing

Questions

- But who decides what those high standards of competence and moral responsibility are?
- Is it up to every professional to decide?
- And what happens when a professional fails to live up to those high standards of competence and moral responsibility?





Role of professional regulatory bodies

- The distinguishing feature of true professions is that true professions have a professional regulatory body
- The role and purpose of a professional regulatory body is to give effect to the social contract between the profession and the public
- In self-regulation regimes, the professional regulatory body, on behalf of the profession, enters into a legal agreement with the Legislature to govern and regulate the profession in the public interest
- This legal agreement is the statute or *Act*

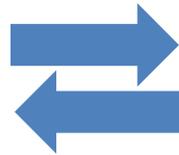
The legal contract



Give

Agreement to govern and regulate the profession in the public interest

The profession's
regulatory body
(on behalf of the profession)



The Legislature
(on behalf of the public)

Get

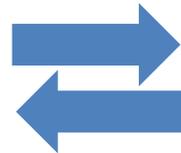
Grant of powers the Legislature deems necessary or beneficial for the regulator to have to fulfil its regulatory mission including title protection

The social contract and the legal contract



The social contract

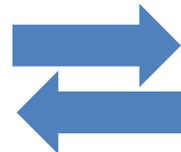
The Profession



The Public

The legal contract

The profession's
regulatory body
(on behalf of the profession)



The Legislature
(on behalf of the public)

Role of professional regulatory bodies



- Professional regulatory bodies take the ‘social contract’ and make it concrete and actionable
- Professional regulatory bodies are a means for a profession to collectively ‘keep the feet of their professionals to the fire’ and ensure that their professionals live up to the social contract
- Professional regulatory bodies promote and protect the public interest by establishing, maintaining, developing and enforcing standards of qualification, standards of practice, standards of professional ethics, standards of knowledge, skill and proficiency, and by regulating the practice, competence and professional conduct of members of the Association and firms



The privilege of self-regulation

- Self-regulation is not a given, it is a privilege
- It is an exceptional arrangement granted to professions because it is assumed that professionals have the maturity and moral dedication to be able to set their self-interest aside and to put the public interest first
- In exchange for the privilege of self-regulation, the profession had to agree to certain terms and conditions
- The first condition was to establish and maintain a professional regulatory body

The privilege of self-regulation



- Just to be clear
- The Human Resources profession in Ontario was not granted the privilege of self-regulation because the profession 'deserved it'
- The Human Resources profession in Ontario was granted the privilege of self-regulation it agreed to promote and protect the public interest

What did we agree to collectively?



We agreed to establish and maintain a professional regulatory body which:

- Would make the promotion and protection of the public interest its paramount object (a.k.a., purpose, mission, raison d'être, etc.)
- Would establish, maintain, develop and enforce standards of qualification, standards of practice, standards of professional ethics, standards of knowledge, skill and proficiency, and to regulate the practice, competence and professional conduct of members of the Association, students, and firms
- Would establish and support independent adjudicative committees whose duty is to be fair and impartial
- Would abide by the Fair Registration Practices Code (FARPACTA, 2006), the Labour Mobility Code (OLMA, 2009), and the *Statutory Powers Procedure Act, 1990*.

What does this mean for individual members?



- Professionals are different from non-professionals
- Professionals hold themselves to a higher standard of competence and moral dedication
- But also, professionals agree to support a professional regulatory body and agree to be subject to the authority of this professional regulatory body which establishes, maintains, develops and enforces standards on behalf of the profession

What does this mean for individual members?

- All sorts of individuals can claim that they are professionals but only true professionals hold themselves accountable for their conduct as professionals
- The professional regulatory body is the mechanism by means of which professionals hold themselves accountable to the public



Two accountabilities



PROFESSIONAL REGULATORY BODIES

- Professional regulatory bodies (of which HRPA is one) are accountable to the Legislature for ensuring that members of the profession are competent and act in an ethical manner by living up to their agreement they made with the Legislature

PROFESSIONALS

- Professionals are accountable for living up to higher standards of competence and conduct
- Professionals are accountable to their professional regulatory body for compliance with the rules established by their professional regulatory body to ensure that members of the profession are competent and act in an ethical manner

What is wrong here?



“The Association should grant the designation but should leave it at that, the Association has no business telling me how to do my work.”

Blog post

What is wrong here?



- This individual does not believe that they should be accountable to their professional regulatory body for their conduct as a professional
- This individual believes that they can set their own standards as to what is competent and ethical practice
- It is an unprofessional attitude, it is also wrong!

Unfortunately, that's not how it goes



- HRPA has a duty under the *Act* to “*establish, maintain, develop and enforce standards of practice*”
- HRPA would be failing to fulfil its objects under the *Act* if it didn't set out standards of practice when such standards are required to protect the public
- Professionals are not free to practice their profession in any way they see fit, they are subject to professional guidance established by their professional regulatory body



Two levels of obligations

Obligation to live up to a higher standard of competence and moral dedication



Obligation to abide by the rules and professional guidance set out by the professional regulatory body

High level principles
Ideals
The moral compass



Specific requirements and obligations established by the professional regulatory body



Moral compass

- The obligation to abide by the rules and professional guidance set out by the professional regulatory body does not excuse professionals from the obligation to live up to a higher standard of competence and moral dedication
- This not a 'work to rule' situation
- It is still important for professionals to have the 'moral compass' to guide their professional practice



Moral compass

- Professionals are aware that more is expected of them than is expected of non-professionals
- Professionals understand that they have duties that go beyond those of non-professionals (sense of obligation)
- Professionals take these professional obligations quite seriously
- Being aware of one's duties and obligations

Moral compass



- As professionals, HR professionals are required to:
 - Act with integrity, trustworthiness, candour
 - Subjugate self-interest to the interest of others
 - Be guided by fairness and equity
 - Balance interests

Obligation to follow the rules established by the professional regulatory body



Compliance with rules
established by the
professional regulatory body

Compliance with rules
established by the
professional regulatory body
relating to the practice of the
profession

Compliance with rules
established by the
professional regulatory body
relating to one's obligations
towards the professional
regulatory body

Obligations to one's professional regulatory body



Support

Financial support

Obedience

Willingness to be abide by the professional guidance issued by the Association, compliance with specific policies and requirements, responsiveness to requests, acceptance of limitations on privacy

Administrative compliance

Providing information, completing forms, adherence to deadlines

Financial support



- In fact this is one of the criteria the Health Professions Regulatory Advisory Council uses to decide whether to recommend that a profession should be regulated or not:

“Members of a profession requesting regulation must also recognize that regulation will cost them money, time and effort. The applicant is asked to show that the practitioners of the profession are sufficiently numerous to support and fund, on an ongoing basis, the requisite number of competent personnel to enable the regulatory body to continue to discharge its functions effectively.”

Professionals are required to support their regulatory body



- In one way or another, professionals pay for their professional regulatory body to regulate them
- In Ontario, the average dues paid by professionals to their professional regulatory bodies in 2015 was \$831 per year with a median of \$635 per year
- The minimum was the Ontario College of Trades at \$136 per year, and the maximum was the Law Society of Upper Canada at \$2,160 per year for lawyers.

Obligations stemming from obedience to rules established by professional regulatory body



- Complying with the Act, the By-laws, the Code of Ethics and Rules of Professional Conduct, and all other professional guidance issued by the Association
- Complying with all applicable continuing professional development requirements
- Professional liability insurance requirements
- Notifying the Registrar of any bankruptcy or insolvency event
- Notifying the Registrar of events which fall under the self-reporting obligations
- Cooperating fully with any investigation or inspection conducted by the Association
- Responding to any professional complaint filed with the Association

Professionals are subject to standards of professional ethics



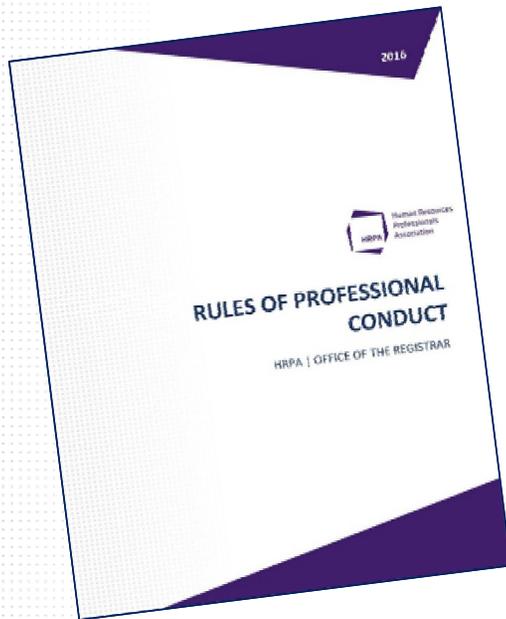
- Professional regulatory bodies are mandated to 'establish, maintain, develop and enforce standards of professional ethics'
- Professionals are obligated to abide by these standards of professional ethics

Duty to abide by the Rules of Professional Conduct



- Professional regulatory bodies are mandated to ‘establish, maintain, develop and enforce standards of practice’
- Regulated professionals are obligated to abide by any standards of practice established by their professional regulatory body
- Codes of ethics and Rules of Professional Conduct provide detail and specificity as to what it means to practice one’s profession in the public interest

Rules of Professional Conduct



- HRPA implemented its Rules of Professional Conduct in 2009
- HRPA's Rules of Professional Conduct incorporate the Code of Ethics

Professionals are subject to continuing professional development requirements



- Continuing professional development requirements are there to ensure that professionals are keeping their knowledge and skills up to date

Professionals are subject to professional liability insurance requirements



- Professional liability insurance requirements are put in place to protect the public by making sure that professionals can meet any judgment against them

Professionals are subject to various notification requirements



- Professionals must inform their professional regulatory body
 - Of one's up-to-date contact information
 - Whether one has been the subject of any criminal proceeding
 - Whether one has been the subject of any disciplinary proceedings on the part of any regulatory body
 - Whether one has experienced a bankruptcy or insolvency event
 - Whether one practices through a firm or not
 - Whether one carries professional liability insurance or not

Professionals are answerable to their professional regulatory body



- Non-professionals are answerable to their employers and clients, professionals are, in addition, answerable to their professional regulatory body
- If there were to be a complaint against a member, the member must:
 - answer to the allegations (whether the member agrees with the allegations or not)
 - cooperate fully with any investigation into allegations
 - appear before the Discipline Committee if required to do so
 - obey any order of the Discipline Committee

Professionals accept certain limitations on their privacy



- The Courts have accepted the idea that in exchange for the privileges of being professionals, professionals accept certain limitations on their rights to privacy
- All sorts of information is published in the Public Register, on the web site, and in the regulatory newsletter

Professionals accept certain limitations on their privacy



- Contact information is public
- Suspensions, revocations, and reinstatements
- Authorization for independent practice (compliance with professional liability insurance requirement)
- When matters go to discipline, names and allegations are made public
- Hearings are public
- Matters remain on the Public Register for 10 years

Administrative compliance



- Ensuring that one's information is current and accurate
- Completing forms
- Adherence to deadlines



A core issue

- A core issue is that many HR professionals are concerned that they will be held accountable for policies, actions, and decisions that they had no control over
- Professionals cannot be held accountable for policies, actions, and decisions that they had no control over; but are held accountable for doing what could have been done in the situation
- Professionals are expected to take a stand when it is warranted
- Sometimes being a professional requires courageous action

A core issue



“Do you honestly think that HR professionals will stand up to their employer if the employer is not acting in the public interest? This is advocating "whistle blower" activity.”

“Even if HR Professionals within an HR Department and perhaps one step removed from ultimate HR decision-making, isn't there still a legal and moral responsibility to step up?”

Comments made in recent HRPA webinar

A core issue

- It is not always easy to be a professional
- If we didn't want to be held accountable for doing what is right, we shouldn't have gone for professionhood



But HR is a voluntary profession?



“If the duties and obligations become too onerous, won’t individuals just stop being members of HRPA because one does not need to be a member of HRPA to practice in Human Resources?”



Voluntary professions

- A voluntary profession is one where non-members can still practice the profession
- The Human Resources profession is not alone in being a voluntary profession:
 - For the most part, accounting is not licensed (only public accounting is licensed, and only 5% of accountants have a public accounting license)
 - Only 20% of engineering work requires a license
 - Social work has no 'authorized acts' and neither do dietiticians



Q: Why would a voluntary profession agree to accept the duties and obligations of professionhood?

A: The logic and rationale of the social contract still applies. Even when the public has a choice of regulated vs. unregulated professionals, the *preference* is for regulated professionals

At the professional regulatory body level



- There is nothing in the *Act* that suggest that HRPA should 'ease up' on the protection of the public because some members or potential members may not like it
- The mandate and powers in the *Act* are not watered down in any way because HR is a voluntary profession
- Other than the fact that HRPA cannot prosecute individuals for unauthorized practice of HR, the regulatory powers granted by way of the *Act* are the same as those granted to licensing bodies



A reflexive value proposition

- What is a cost or obligation for the member is a source of value to the public
- The public values being protected
- The public values having recourse
- In the end, being a professional is of value because society values the fact that professionals are subject to regulation by a professional regulatory body
- The reflexive value proposition is just another way of expressing the 'social contract'

Does the public know about the social contract?



Many have commented that despite our efforts, Human Resources is not seen as a true profession by the public

Q: Why should we, as HR professionals, assume the costs and obligations of professionhood if the public is not going to recognize HR as a true profession?

A: We have to believe that if the Human Resources profession lives up to its part of the contract (and makes the public aware of that fact), the public will respond with a grant of professionhood for Human Resources



‘New to regulation’ issues

- Although HR has been regulated since 1990 (26 years), for many being regulated is something that is new
- Our new Act certainly leaves no doubt
- HR seems to be dealing with a lot of the same issues as other ‘new to regulation’ professions
 - Lack of awareness of what it means to be regulated
 - Not believing that we are ‘really’ a regulated profession
 - Not taking regulation seriously (lack of compliance)



A different perspective

- The word 'obligations' has negative overtones
- Obligations feels like something that is imposed from outside
- Obligations feels like something that one grudgingly accepts
- But there is an alternate perspective



A more idealistic perspective?

- Another perspective is that many professionals see these costs and obligations a part of an ‘ideology of service.’
- Sociologists have noted that an ideology of service is a defining characteristic of professions
- In other words, serving the public interest is part of it means to be a professional
- One of Freidson’s (2001) five criteria of professionalism
“an ideology that asserts greater commitment to doing good work than to economic gain and to the quality rather than the economic efficiency of work”

Obligations or badge of honour?



- All professions have an ideology of public service—that the practice of their profession is a social good
- Although this ideology may not be top of mind at all times, it comes to the fore at critical moments
- Many Human Resources professionals already have this ideology of public service



Summary of key ideas

- Professionalization means adopting the characteristics of true professions at the institutional level and at the individual level
- Professionhood is built upon the idea of a social contract
- The social contract between the Human Resources profession and society is substantiated in our *Act*, which can be understood as a contract between HRPA and the Legislature
- This Act has benefits for the profession and its members, but also brings about duties and obligations for both the professional regulatory body and its members



Summary of key ideas

- It is not a professional regulatory body that is imposing costs and obligations on the members of the profession-- the costs and obligations of professionhood are self-imposed
- The members of a profession chose collectively to impose obligations upon themselves in order to live up to (1) the social contract, and (2) the legal contract with the Legislature (aka. *Act* or statute)

Summary of key ideas



- The social contract idea applies to voluntary professions as well as it does for licensed professions
- The mandate and powers granted to HRPA by means of the *Act* as well as the obligations that follow from the *Act* are not watered down in any way because HR is a voluntary profession
- There must be a belief that if the Human Resources profession lives up to its part of the contract (and makes the public aware of that fact), the public will respond with a grant of professionhood for Human Resources, although there will be a lag



Summary of key ideas

- There is an alternate point of view that professionals should embrace the obligations of professionhood as an expression of professionalism
- An ideology of service is inherent in many definitions of professionhood
- This ideology of service expresses itself at both the level of the Association and at the level of individual professionals

For those who are interested in more about the costs and obligations of professionhood



- *The costs and obligations of professionhood* on HRPA website

Questions

