



Human Resources
Professionals
Association

Self-regulation:

Why it is important, why should you care,
and what it should mean to you

October 27, 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

Agenda



- Every year, HRPA conducts a member survey
- The survey includes a number of write-in questions including *“Anything else you would like to tell us about the job the Association is doing as a statutory professional regulator?”*
- Some of the responses to that question reveal some real misconceptions or misunderstandings of HRPA’s role as a self-regulating professional body
- In this webinar, we will respond to some of these comments quoted verbatim



Member Survey comment

“The HRPA has become obsessed with regulating the profession when no one see it as a bona fide one. It takes more than just getting it passed through the legislature. Are the members truly on board with this? If not, then the Board should spend time educating and building understanding on what we're all doing this for. Truthfully, I still don't understand: why it is important, why I should care, and what it means to me.”

HRPA Member, 2016 HRPA Member Survey



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“The HRPAs has become obsessed with regulating the profession”

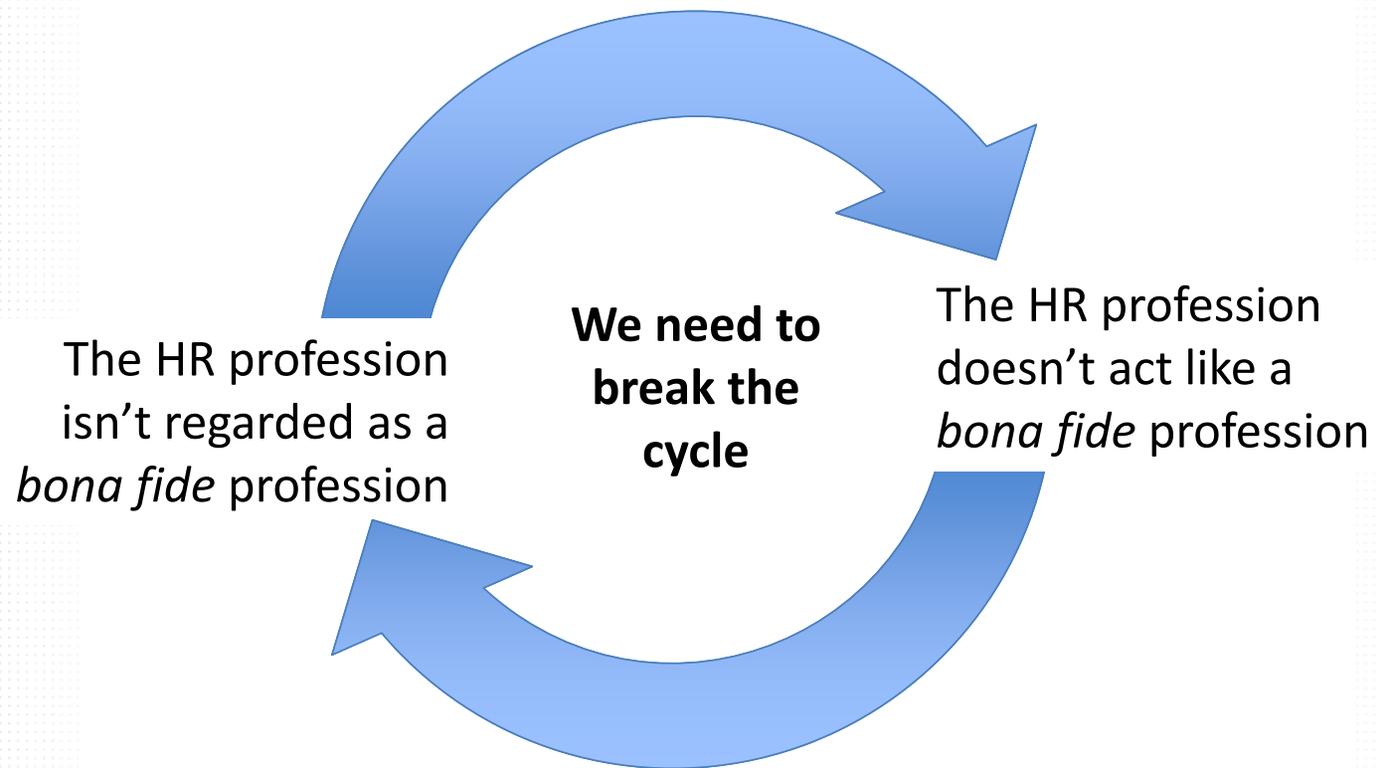


- HRPAs’s mandate is to *“promote and protect the public interest by governing and regulating the practice of members of the Association and firms in accordance with this Act and the by-laws”*
- That is our mandate and mission under the law—that is what HRPAs was created to do
- Being obsessed with fulfilling one’s mandate is a good thing

“...when no one see it as a bona fide one”



- One could debate whether the public sees Human Resources as a true profession or not
- But what comes first, what leads to what
- Do we wait until we are recognized as a *bona fide* profession before start to think about professional regulation?
- Or do we focus on professional regulation in order to change the perception of the public?



Which is it?

Being seen as a
bona fide profession



Self-regulation

or

Self-regulation



Being seen as a
bona fide profession





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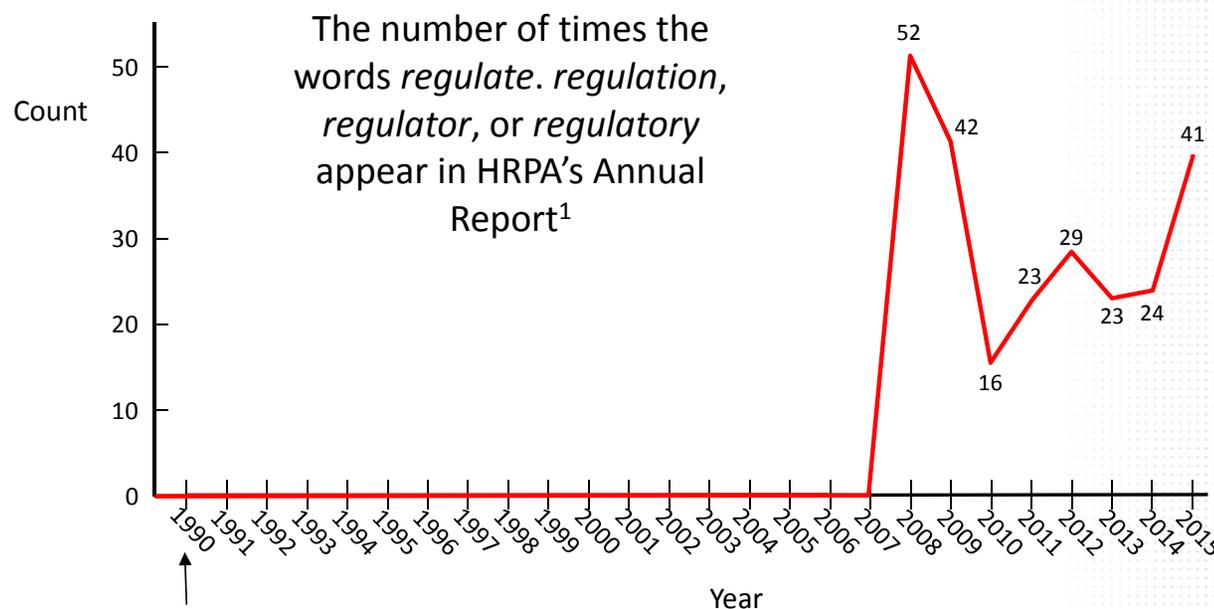
- In some ways yes and in some ways no
- With the passage of the *Act* some things changed
- But the point that passing an act doesn't necessarily change mindsets and perceptions is a point well taken



Awareness of identity as a regulatory body



With the passage of the *Human Resources Professionals Association of Ontario Act, 1990*, HRPAs became a professional regulatory body but that is a different matter than awareness of identity as a regulatory body



↑
HRPA becomes a professional regulatory body

¹Excludes the times when those words were used referring to something other HRPAs mandate as a professional regulatory body, i.e. 'AODA regulations'

“It takes more than just getting it passed through the legislature”

- So what do we do?
- We can't ignore the *Act* because there are some who don't realize what it means
- We have no choice but to work at getting everyone on board with the *Act*





Member Survey comment

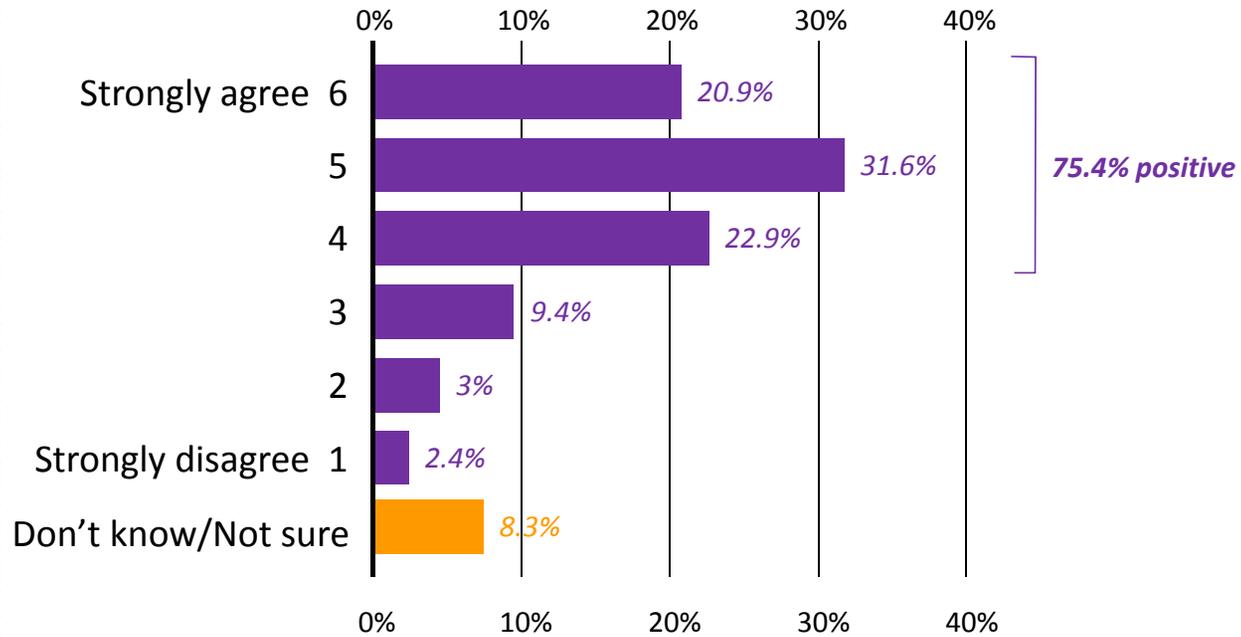
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HRPA Member, 2016 HRPA Member Survey



“Are the members truly on board with this?”

“Do you agree that the promotion and protection of the public interest should be HRPAs primary focus?”



Source: 2016 HRPAs Member Survey



“Are the members truly on board with this?”

- Members says they are, but are they ‘truly’ on board?
- Do members fully understand what it means to be on board with the *Act*? Was it an informed response to the question?
- One issue is that the *Act* is now law
- Our choices are to ask the Legislature to repeal the *Act* (which it would be unlikely to do) or get everyone on board with the *Act*
- Not being on board with the *Act* is not really an option



Member Survey comment

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“Educating and building understanding”

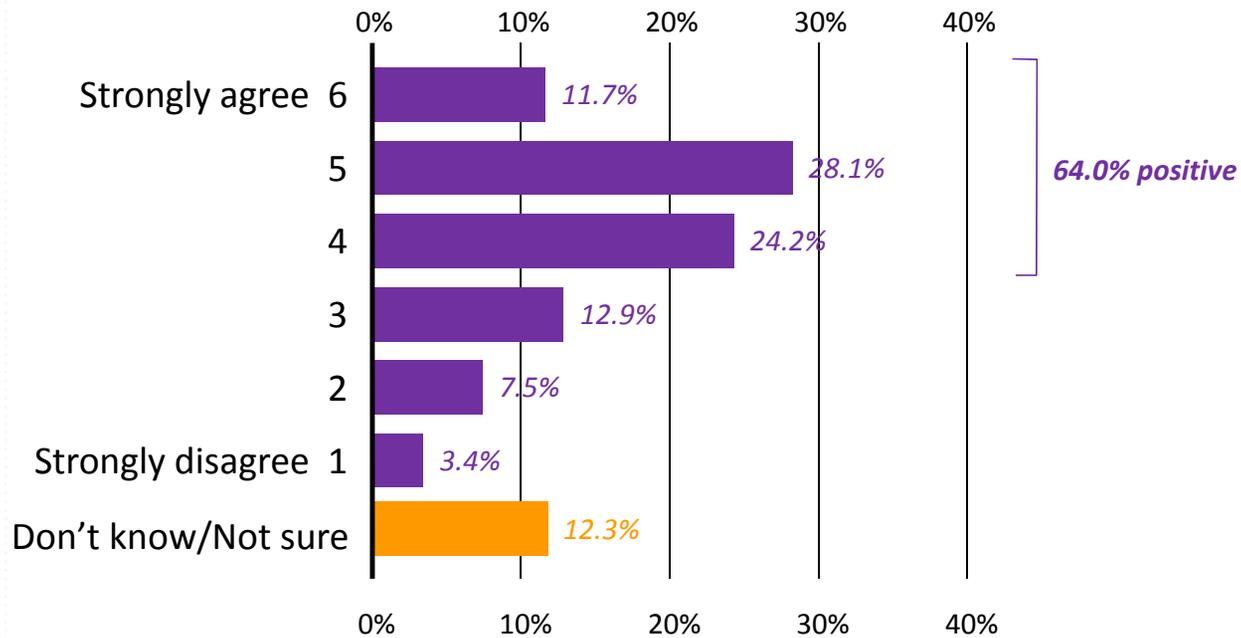


- The Office of the Registrar has been conducting webinars such as this one since 2009
- On a pilot basis, a course on the professionalization of HR is being taught in the Bachelor’s in Human Resources Management program at York University. It is a fourth year course.
- Perhaps we need to do more?



“If not, then the Board should spend time educating and building understanding on what we're all doing this for”

“A critical enabler of the ability of HRPAs to fulfil its public protection mandate is the support of the membership for this endeavor. Do you agree that HRPAs are doing a good job in building support among the membership for its public protection mandate?”



Source: 2016 HRPAs Member Survey



Member Survey comment

*“The HRPA has become obsessed with regulating the profession when no one see it as a bona fide one. It takes more than just getting it passed through the legislature. Are the members truly on board with this? If not, then the Board should spend time educating and building understanding on **what we're all doing this for. Truthfully, I still don't understand: why it is important, why I should care, and what it means to me.**”*

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“what we're all doing this for”

- I will take it that ‘this’ refers to ‘becoming a profession regulated by public act’
- For decades, HR has wanted to be recognized as a ‘true’ profession
- The key defining characteristic of true professions in Canada is statutory self-regulation
- So, HRPA pursued self-regulation first with a private act in 1990 and more recently with a public act in 2013

“*what we're all doing this for*”

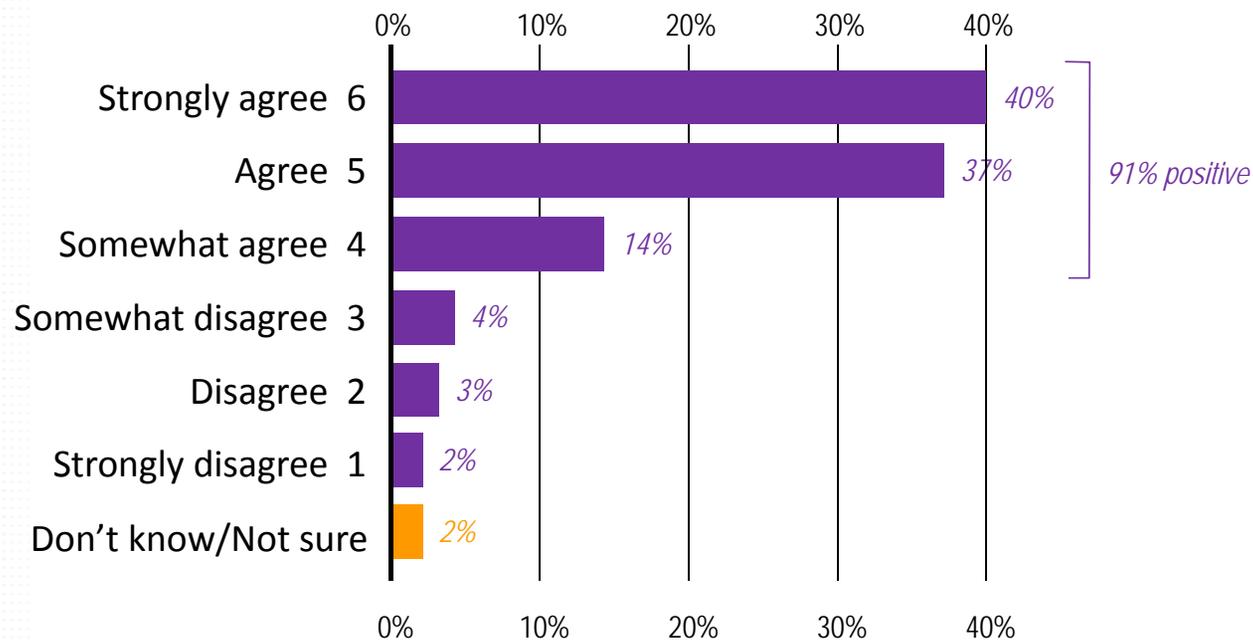


- With the passage of the *Registered Human Resources Professionals Act, 2013*, the HR profession got what it always said it wanted
- But this kind of professionhood comes at a price
- Setting up a professional regulatory body that is dedicated to promoting and protecting the public interest is part of the deal HRPA made with the Ontario Legislature
- We’re doing this because self-regulation is a core aspect of what it means to be a profession *and* to live up to the deal the profession made with the Legislature (aka. the *Act*).



Is it important?

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



Source: 2013 HRPA Member Survey

“why it is important?”



“Okay, we no longer want to be the people who carry the watermelon to the company picnic; we are going to become a profession.”

Richard E. Boyatzis

As cited in Yeung, A. K. (1996).

Competencies for HR professionals: An interview with Richard E. Boyatzis. *Human Resources Management*, 35(1), 119-131.



“why it is important?”

“Why did the HR profession want to be recognized as a true profession?”

Selfish reasons

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

‘Noble’ reasons

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

“why I should care?”



- Choosing to go down the path of self-regulation has had, and will continue to have, major implications for both the HRPA and its members
- By becoming members, we accept to support the mandate of the Association
- As members of HRPA, we are bound by the deal the Association made with the Legislature on behalf of all members

Member survey comment



“There will come a point where the leadership of HRPA are going to have to acknowledge to the membership that HRPA is NOT a regulatory body, but a voluntary professional association. HRPA does NOT regulate the profession, only our members. We are NOT like lawyers (Law Society of Upper Canada), engineers (Professional Engineers Ontario), veterinarians (College of Veterinarians of Ontario) or any health care profession (regulated by the Health College). We are closest to Chartered Professional Accountants Ontario where only about 20% of their members are actually ‘regulated’ under the Ontario Public Accounting Act, 2004.”

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Sorry to disappoint but...



- HRPA is a regulatory body
 - HRPA was given a mandate, by statute, to promote and protect the public interest by governing and regulating the practice of members of the Association and firms in accordance with the *Act* and the by-laws
 - HRPA is exempt from the *Not-for-Profit Corporations Act, 2010* (an exemption that the Ontario Legislature granted only to professional regulatory bodies)
 - HRPA appears on Schedule 1 of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2005* (only regulatory bodies appear on this schedule), on the list of professional regulatory bodies on the Office of the Fairness Commissioner web site, and is subject to the oversight of the Office of the Fairness Commissioner



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Regulating members



- All professional regulatory bodies, including HRPAs, govern and regulate only their members
- No professional regulatory body governs or regulates non-members
- All professional regulatory bodies, including HRPAs, can in the context of an investigation enter and inspect the business premises of the member, require non-members to provide information, or require non-members to produce documents
- All professional regulatory bodies, including HRPAs, prosecute use of title by individuals not authorized to do so (including non-members)
- When there is licensing, professional regulatory bodies also prosecute practice individuals not authorized to do so (including non-members)



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HRPA Member, 2016 HRPA Member Survey

Actually...



- HRPA is more like the LSUC, the PEO, the CVO, and health professions than you might think
- The fact that HRPA does not have the authority to stop non-members from practicing HR does not diminish in any way HRPA's mandate or authority to govern and regulate its members
- Other than the fact that HRPA cannot prosecute non-members for providing HR services, there is no difference!
- It is still the case that HRPA's mandate is to *“promote and protect the public interest by governing and regulating the practice of members of the Association and firms in accordance with this Act and the by-laws”*

Comparing objects



Objects of the HRPAs under the *Human Resources Professionals Act, 2013*

Objects of the Association

4. The objects of the Association are,
- (a) to promote and protect the public interest by governing and regulating the practice of members of the Association and firms in accordance with this Act and the by-laws, including,
 - (i) establishing, maintaining, developing and enforcing standards of qualification.
 - (ii) establishing, maintaining, developing and enforcing standards of practice,
 - (iii) establishing, maintaining, developing and enforcing standards of professional ethics,
 - (iv) establishing, maintaining, developing and enforcing standards of knowledge, skill and proficiency, and
 - (v) regulating the practice, competence and professional conduct of members of the Association and firms

Objects of the Colleges under the *Regulated Health Professions Act, 1991*

Objects of the College

3. (1) The College has the following objects:
1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Code and the *Regulated Health Professions Act, 1991* and the regulations and by-laws.
 2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.
 3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.
 5. To develop, establish and maintain standards of professional ethics for the members.
 4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing evaluation, competence and improvement among the members.



Member survey comment

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Actually...



- Only 5.3% (4,634/83,738) of members of CPA Ontario are licensed to practice public accounting in Ontario
- But 100% (83,738/83,738) of members of CPA Ontario are regulated by CPA Ontario
- Putting regulation in quotation marks is wrong, members of CPA Ontario are regulated by CPA Ontario, just like the members of HRP Association are regulated by HRP Association

Licensure



- Licensure is a complicated topic, let's set this aside for a future webinar
- Main points for now are:
 1. that regulation and licensure are not the same thing
 2. To say that HRPA is not a regulatory body because it only regulates its members is just incorrect
 3. Just because HR is not a licensed profession doesn't mean that it isn't a regulated profession
 4. HR is a regulated profession in Ontario
 5. By statute, HRPA's mandate and duty is to govern and regulate the practice of members of the Association and firms in accordance with the *Act* and the by-laws (the same as all other professional regulatory bodies in Ontario)

Member survey comment



“HRPA is trying to make the association into something that it is not, e.g. creating a burden for the members without the benefits of regulated professions.”

HRPA Member, 2016 HRPA Member Survey

Member survey comment



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What is it that the Association is not?



- HRPA is not trying to make itself into something that it is not, HRPA is working hard to fulfil its mandate as a professional regulatory body. HRPA is working hard to become what the Legislature set out for it to be.

Member survey comment



*“HRPA is trying to make the association into something that it is not, e.g. **creating a burden for the members without the benefits of regulated professions.**”*

HRPA Member, 2016 HRPA Member Survey

Who must blink first?



First, we get the benefits
of being a regulated
profession



Only then do we
accept the burden of
regulation

or

We accept the burden of
self-regulation



In order to get the
benefits of being a
regulated profession

Member survey comment



"I believe that the HRPA should support its members first, ideally that includes supporting "the promotion and protection of the public interest"; but I think that the HRPA should focus on their member's needs first. A separate arm of the HRPA focusing on he "protection of the public interest" would be a great idea. This would also allow that arms-length organization to investigate one of the members in the case of a complaint."

HRPA Member, 2016 HRPA Member Survey

Member survey comment



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Promotion and protection of the public interest



- HRPA agreed to put the promotion and protection of the public interest above all other interests
- In law, HRPA cannot put the interests of the members above the interests of the public
- That's the deal HRPA made with the Ontario Legislature in exchange for the privilege of self-regulation

Member survey comment



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Creating a separate arms-length organization to focus on protection of the public



- The HRPA cannot create a separate arms-length organization to focus on protection of the public
- Why? Because only the Ontario Legislature can create a professional regulatory body because this involves the delegation of provincial powers
- The Ontario Legislature already did this—it created the HRPA with a mandate to protect the public interest
- Any group of individuals can form an association, but only the Ontario Legislature can create a professional regulatory body



Member survey comment

“I think the Association should be more concerned with protecting its members than exposing them to attack through a public complaints procedure. Any vindictive employee/union can launch an assault on a member, throwing the member on the defensive, putting them through hell, as a form of punishment. The Association is, in effect, facilitating this, which, with all due respect, is not their role in my view.”

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“Protecting its members”



- The *Act* is quite clear about this—HRPA exists to protect the public and not to protect its members
- Our *Act* requires HRPA to have a transparent, objective, impartial, and fair complaints process
- Imagine if the Law Society were to say: “We’re here to protect lawyers and paralegals from complaints from the public”
- When professional regulatory bodies get into trouble in the media and with governments, it is virtually always about the failure to handle complaints appropriately



Member survey comment

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Vexatious complaints

- Just because a complaint was made by an employee or union representative does not mean that we should automatically assume that the complaint is vindictive
- Then again, just because a complaint was made by an employee or union representative does not mean that it was not vindictive
- We need to consider each complaint on its own merits, without bias or prejudice
- There is a mechanism to deal with vexatious complaints, but there is due process to safeguard fairness and impartiality in any decision to dismiss a complaint



Member survey comment

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What is the role of the Association specifically in regards to complaints?



Again the Act is clear

31. Subject to the by-laws, the complaints committee shall review every complaint regarding the conduct of a member of the Association or a firm and, if the complaint contains information suggesting that the member or firm may be guilty of professional misconduct as defined in the by-laws, the committee shall investigate the matter.

Member survey comment



“This [professional regulation] really isn't an interest of mine. We aren't doctors, how much harm can HR really do to the public, is this what my dues are paying for?”

HRPA Member, 2016 HRPA Member Survey

Member survey comment



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Risk of harm to the public

- The only legitimate reason for the Legislature to create a regulated profession is to protect the public from harm
- In passing the *Registered Human Resources Professionals Act, 2013*, the Ontario Legislature was of the opinion that there were sufficient risks to the public stemming from the practice of Human Resources to warrant regulation
- If there no harms that might come about from the practice of Human Resources, the Legislature made a big mistake and should repeal the *Act* and HR should not be a regulated profession
- HR cannot have the status of a regulated profession without there being significant risks to the public stemming from the practice of the profession

Risks of harm stemming from the practice of Human Resources management



- Unfair and inequitable workplaces
- Unsafe workplaces
- Unproductive workplaces
- Acrimonious employer-employee relations
- Underutilized talent, underemployment and wasted human resources
- Inaccessible workplaces
- Worker harassment
- Discrimination
- Etc.

Member survey comment



*“This [professional regulation] really isn't an interest of mine. We aren't doctors, how much harm can HR really do to the public, **is this what my dues are paying for?**”*

HRPA Member, 2016 HRPA Member Survey

At HRPAs, only 5.4% of membership dues go towards regulation



5.4%

The difference between Regulatory Affairs revenue and Regulatory Affairs expenses as a proportion of membership dues revenue



Summing up

- It is difficult from a member survey to determine how widespread a particular opinion is
- Nonetheless, it is important to address such comments because they represent serious misinterpretations of HRPA's mandate



Summing up

- HRPA is a professional regulatory body
- As such, HRPA's mandate is to promote and protect the public interest by governing and regulating the practice of members of the Association and firms in accordance with the *Act* and the by-laws
- This mandate comes from the Ontario Legislature—it is part and parcel of the deal the HRPA made with the Legislature in exchange for self-regulation
- HRPA is working hard to fulfill this statutory mandate

Summing up

- Of course, HRPAs cannot fulfil this mandate without the support of its members
- HRPAs are working hard to build support among its members for its public protection mandate



Questions





**Suggestions for webinar topics?
Feedback?**

registrar@hrpa.ca