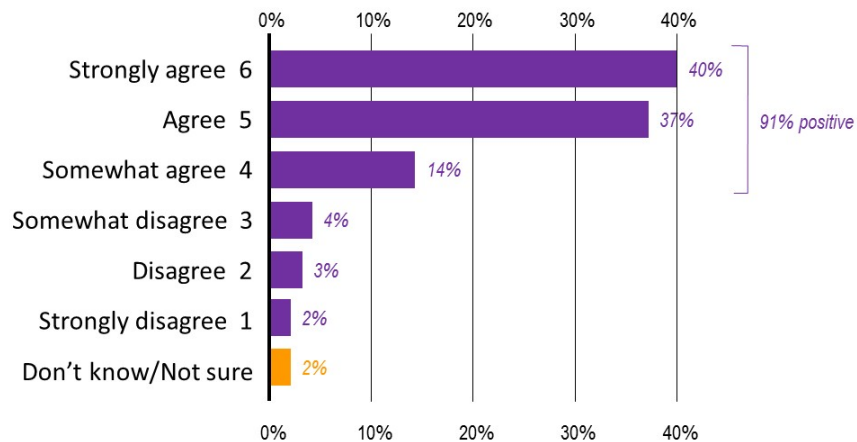




HRPA Series on Professionalization, Professionalism, and Ethics  
for Human Resources Professionals

## The costs and obligations of professionhood<sup>1</sup>

For a number of years, the Human Resources Professionals Association (HRPA) would ask the following question in its annual survey: “Do you agree that the professionalization of HR is, or should be, an important issue for the profession?” The last time this question was included in the HRPA member survey was in 2013.



Source: 2013 HRPA Member Survey

Professionhood brings with it both benefits and obligations. A common view of professionhood is that it is based on a social contract between the profession and the public. For example, from Sullivan (2000)<sup>2</sup>, we have:

“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

<sup>1</sup> *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.

<sup>2</sup> Sullivan, W. M. (2000). Medicine under threat: professionalism and professional identity. *Canadian Medical Association Journal*, 162(5), 673-5.

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.”

The basic idea is that professionhood is a two-way deal. For established professions, the idea that a profession involves a social contract with the public based on a *quid-pro-quo* is taken for granted and is not given much thought, but for HR management this is not quite the case yet. HR management is not an established profession but an emerging profession. Its members are just figuring out how the deal works. The reason why figuring out the deal is important now is because of recent events such as the passage of HRPAs’ *Registered Human Resources Professionals Act, 2013* in Ontario. The *Registered Human Resources Professionals Act, 2013*, is not *the* social contract but it is part of the social contract.

In most jurisdictions, HR management is not a regulated profession—the profession and its members are not subject to the costs and obligation of being a profession. But, then again in these jurisdictions, the HR profession is not regarded as a true profession (in the same company as accountants, lawyers, and engineers) and neither does it enjoy the benefits of being regarded as a true profession.

The HR management profession is regulated in two jurisdictions only—Québec and Ontario—and even in these jurisdiction the regulation of HR management is relatively recent. In Ontario, the HR management profession became a regulated profession in 1990 with the passage of the *Human Resources Professionals Association of Ontario Act, 1990*. Although this act was a private act, the basic outline of HR management as a profession was already here. In 2013, this private act was replaced by a public act—the *Registered Human Resources Professionals Act, 2013*. This was a much more substantial act.

The point here is that although the professionalization of HR has been an ongoing process for many decades, only recently has HR management made the jump to the big leagues of professional regulation. This is important because HR management has likely entered a period where it will possibly renegotiate its social contract with the public. Also, HR professionals are in the process of understanding and coming to grips with the costs and obligations that come with their new professional status.

Most often, in discussions of the status of HR as a profession, the topic is either whether HR management is a profession or not or the degree to which HR management has acquired the characteristics of a profession. In this article, we will focus on the costs and obligations of being a profession.

Some of these costs and obligations were already in place before the public act was passed. (Indeed, the willingness of the HR profession in Ontario to take on these costs and obligations played a significant part in the Government’s willingness to bump up the HR profession from private act regulation to public

act regulation.) Nonetheless, with the passage of a public act, the whole matter becomes more important.

<b>The benefits and costs and obligations of professionhood</b>	
<b>Benefits</b>	<b>Costs and obligations</b>
<ul style="list-style-type: none"> <li>• Greater respect for the profession and its members</li> <li>• Greater autonomy for HR professionals</li> <li>• Better remuneration</li> <li>• More interesting and fulfilling careers as HR professionals</li> </ul>	<ul style="list-style-type: none"> <li>• Cost of maintaining a professional regulatory body</li> <li>• Participation in regulatory body quality assurance program</li> <li>• Professional liability insurance requirements</li> <li>• Constraints on professional practice</li> <li>• Being answerable to a professional regulatory body</li> <li>• Limitations on privacy and other rights</li> <li>• At times, being a professional is inconvenient</li> </ul>

**Cost of maintaining a professional regulatory body**

In exchange for the privilege of self-regulation, the members of a profession must agree to collectively regulate the profession in the public interest. This doesn't just happen, it requires resources and staff to make happen.

There are levels of professional regulation—however, in choosing to pursue self-regulation by public act the HR profession has agreed to a high standard in regards to regulatory policies, practices, and procedures. There is the requirement to establish various committees such as a complaints committee, a discipline committee, a review committee, a capacity committee and an appeal committee. Regulatory proceedings requiring hearings must comply with the *Statutory Powers Procedure Act, 1990*. Regulatory decisions are subject to judicial review by Divisional Court, which is a branch of the Ontario Superior Court. Members of these statutory committees need to be oriented and trained. HRPA now falls under the oversight of the Office of the Fairness Commissioner (OFC) and must file annual Fair Registration Practice Reports and be responsive to any related requests from the OFC.

Maintaining a professional regulatory body also means conducting research into risks posed to the public arising from the practice of the profession. (Were there no such risks, the Legislature would not have acted to regulate the Human Resources management profession.) In exchange for the privilege of self-regulation, HRPA members have agreed to develop, implement, and maintain a sophisticated regulatory framework which exists to protect and promote the public interest.

**Participation in regulatory body quality assurance program**

In fulfilling its obligation to protect and promote the public interest, the professional regulatory body is required to put in place policies and procedures which ensure that the professionals it regulates are competent and act in an ethical manner. Collectively, these are referred to as quality assurance initiatives. The most common quality assurance mechanism is to require participation in continuing professional development. In many professions, members are required to submit to practice

inspections and/or peer review programs. HRPA has not yet implemented a professional inspection program although it is provided for in the *Act*.

### **Professional liability insurance requirements**

Members are required to have professional liability insurance. HR professionals who are employees will be covered by the organization's errors and omissions insurance, but members in independent practice need to purchase their own coverage. This requirement exists to protect the public by ensuring that members are able to cover any valid claim that could be made.

### **Constraints on professional practice**

One of the obligations of professional regulatory bodies is to govern the practice of its members. An important aspect of this obligation is to issue professional guidance to members. This professional guidance can be broad as with Codes of ethics and Rules of professional conduct or quite specific as in practice advisories. In essence, professional guidance tells members of a profession what they can or cannot do. Some members would believe that it is not the role of the professional regulatory body to tell members how to do their jobs—but it is. The bottom line is that professionals are not free to practice their profession in whatever way they see fit.

### **Being answerable to professional regulatory body**

One aspect which distinguishes professionals from other occupations is that they are answerable to their professional regulatory body. Members are required to inform the professional regulatory body of any civil judgments, criminal convictions or misconduct proceedings brought forward by another regulatory body. Members are required to inform the Association of a bankruptcy or insolvency event. Members Professionals are required to fully cooperate with any investigation into allegations of misconduct on their part or any other investigation by the professional regulatory body for that matter. It is also the case that HRPA has continuing jurisdiction over former members, which means that individuals can no longer avoid investigations and discipline by resigning from the Association.

### **Limitations on privacy and other rights**

The courts have reiterated that being a member of a self-regulated profession is a privilege, and that members of such professions must accept certain limitations on their privacy. The public register contains information that some members would prefer not to be made public—for instance, information on previous disciplinary proceedings against them, whether the member has professional liability insurance, and so on. In fact, the Minister of Health has ordered the regulatory bodies falling under the Ministry of Health and Long-Term Care to make even more information on the professionals they regulated available to the public. Although this Ministerial directive doesn't apply to HRPA, it does set the tone and direction for all regulated professions in Ontario.

In addition, in the course of an investigation by the professional regulatory body, an investigator may enter the business premises of members. The latter often causes concern among some members. However, of the 39 professions regulated by public act in Ontario, all 39 have the power to enter the business premises of members under investigation without a warrant.

### **At times, being a professional is inconvenient**

There are many ways in which being a professional is inconvenient at times. The difference between being professional (adjective) and being a professional (noun) is that for professionals professionalism is not a nice-to-have but an essential commitment to the public. Professionals are expected to be professional all the time. Not only are professionals expected to be professional all the time but, as noted above, professionals are accountable to their professional regulatory body for their behaviour as professionals.

Sometimes being a professional means taking a stand on principle which may not be popular with some employers and clients—but that is part of being a profession too.

### **Is it possible to get the benefits of professionhood without incurring the costs and obligations of professionhood?**

Being a member of a true profession means being a member of a professional regulatory body—whether this body is also the professional association or a body which is separate from the professional association. Membership in a professional regulatory body carries with it obligations. It is those obligations which differentiate professions from social clubs.

At the end of the day, the benefits of professionalization come from the public placing the profession in the ‘true profession’ bucket. There are other buckets—trades, semiprofessions, paraprofessions, (unregulated) skilled occupation. There are also other buckets that are used that are certainly less comfortable—buckets such as ‘wannabe professions’ and ‘mimic professions.’ What, then, makes the public put some occupations in the ‘true professions’ bucket as opposed to some other?

There doesn’t appear to be a clear answer to this question. However, it seems clear that what is seen as a cost or obligation on the part of the profession is also what creates value of the public. It is also the case that the government will not delegate regulatory powers to a professional governing body unless this body agrees to serve the public interest.

In short, the argument here is that an occupation cannot get the benefits of professionalization without incurring the costs and obligations of professionalization. In the established professions, the costs and obligations that come with professionhood are taken for granted—these are just part of the package—but for some HR professionals assuming these costs and obligations may take some getting used to.

The tricky part, however, is that it would appear that it is the profession and its members that need to make the first move. In other words, the HR profession and its members will need to assume the costs and obligations of professionhood before the public will grant the benefits of professionhood to the HR profession.

Claude Balthazard, Ph.D., C.Psych., CHRL  
Human Resources Professionals Association

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