One aspect of the transition from an unregulated to a regulated profession is that the profession’s regulatory body must get used to using regulatory powers, and that the members of the profession must get used to the fact that their professional regulatory body is exercising real powers. Indeed, the exercise of authorities delegated by law is what distinguishes professional regulatory bodies from other kinds of professional organizations.

“It is important to remember that the use of powers is not optional. When the Ontario Legislature gave the HRPA a mandate to govern and regulate the practice of its members and firms in the public interest, it also gave HRPA the powers it deemed necessary or beneficial for HRPA to have to fulfill this mandate. The Ontario Legislature expects that, in the appropriate circumstances, HRPA will use any or all of the powers granted to it. The Ontario Legislature does not grant powers it believes to be irrelevant or useless. Admittedly, some powers, such as custodianship, for example, are not expected to be used very often; but the point is that the Legislature does not grant powers just for the sake of doing so. When the Act uses the word ‘may’ instead of ‘shall’ it does not mean that HRPA has the choice to do nothing. It means that the use of a given power may not be the most appropriate action to take in all circumstances.”
But then come the objections and concerns—“What if we make a mistake and get sued?” “What if it upsets our members?” or “What if we don’t have the competence to do this?”

*What if we make a mistake and get sued?*

The Ontario Legislature recognized the vulnerability of professional regulatory bodies and did not want such bodies to be paralyzed by concerns about liability. For this reason, the *Registered Human Resources Professionals Act, 2013*, includes strong protection from liability for any act done in good faith in the exercise of any power or duty of the Association under the Act. In other words, as long as HRPA is acting in good faith, it cannot be sued in the exercise of powers or duties granted to it by the Act. (Regulatory decisions may still be reviewed by Divisional Court, however.)

*What it upsets our members?*

It would not be appropriate for HRPA not to use a power granted to it because it would upset some of its members. It is simply not appropriate for HRPA to ‘tone down’ regulatory activities because some members are unwilling to tolerate any requirement they do not agree with. In fact, the Legislature foresaw this possibility and exempted HRPA, and all other professional regulatory bodies, from the application of the *Not-for-Profit Corporations Act, 2010* (when it comes into force). The reason for this exemption is that there are provisions in the *Not-for-Profit Corporations Act, 2010* that members could use to frustrate the professional regulatory bodies ability to govern and regulate their members. This doesn’t mean, of course, that HRPA should use the powers granted to it in a ham-fisted way. It also doesn’t preclude the use of soft power if that gets the job done. The bottom line remains to carry out the mandate as spelled out in the objects, not making members happy.

*“What if we don’t have the competence to do this?”*

There is no doubt that governing and regulating a profession requires a whole range of individual and organizational competencies and acquiring these competencies is a steep learning curve especially at first—but that is what we agreed to do. It is also the case that by passing the Act, the Legislature expressed full confidence that HRPA would figure it out.

In the end, there are no legitimate reasons not to do what we have been mandated to do. The Ontario Legislature not only gave HRPA the powers needed to carry out its mandate but also removed some obstacles to the exercise of these delegated authorities. Part of the transition from an unregulated to a regulated profession is for the professional regulatory body to learn how to effectively use the powers it was given. So let’s get on with it.