The passage of the *Registered Human Resources Professionals Act, 2013*, is no doubt the most important single event in the evolution of the Human Resources profession in Ontario, but what the *Act* actually did is not always well understood. On November 6, 2013, the previous enabling statute was repealed and replaced with the current *Act*. In other words, the Ontario Legislature wiped the slate clean, and set up an entirely new corporation where the old one had been. In fact, one could speak of a *new* HRPA and an *old* HRPA. Here are four misconceptions about the *new* HRPA:

1. **HRPA is an association but with ‘extra powers’ as a result of the Act.**

   The idea here is that the new HRPA is just like the old HRPA except that it has more powers than the old HRPA. Yes, the new HRPA has more powers than the old HRPA, but these new powers are not simply *bolt-ons*. When the Act was passed, the Ontario Legislature also gave HRPA a brand new set of objects, a new mission and mandate. The new mission and the new powers go hand in hand. The Legislature would not have delegated these powers unless HRPA also accepted the promotion and protection of the public interest as its core mission. It is not correct to think of HRPA as having new powers bolted on to an old mission and mandate. HRPA is not an association with extra powers, it is a professional regulatory body with all the privileges and obligations of being one.

2. **HRPA is both a professional association which serves the interests of its members and a professional regulatory body which serves the interests of the public**
The idea here is that HRPA is both the professional association and the professional regulatory body for Human Resources professionals in Ontario. These organizations are sometimes referred to as dual-object, dual-mandate, bifurcated mandate, or bicameral professional organizations. For example, the College and Association of Registered Nurses of Alberta (CARNA) would be one such professional organization. But here is the rub. Some provinces allow for the existence of dual-mandate organizations, others do not, and Ontario happens to be a province that does not subscribe to the idea of dual-mandate professional organizations. The same conclusion can be drawn from looking at HRPA’s objects. HRPA’s objects do have some nuance and complexity, but there is nothing in the Objects of the HRPA that would support the idea that HRPA is both the professional association and the professional regulatory body for Human Resources professionals in Ontario.

3. **HRPA can serve the interests of its members as long as these don’t conflict with the interests of the public.**

The idea here is that serving the public interest is some kind of limit or boundary on HRPA’s ability to serve the interests of its members—only when there is a conflict the interests of the public must come first. That is not a correct way of looking at things. HRPA does not have any mandate to serve the interests of its members, even if doing so does not conflict with the interests of the public. This does not mean that HRPA cannot do things that are of benefit to the members. There are many things that, by carrying out its statutory objects, will be of benefit to its members. For some, the difference between ‘serving the interests of its members’ and ‘doing things as permitted by the objects that will be of benefit to the members’ is splitting hairs—but there is a difference and it is an important one. ‘Serving the interests of the members’ means doing something with the specific intent of creating a benefit, or advocating, for members, and that is something HRPA cannot do; that fulfilling one of the statutory objects of the HRPA creates a benefit for members is fine. HRPA’s mission and mandate is a positive one and not a negative one—meaning that the Legislature expects HRPA promote and protect the public interest not to do nothing that would conflict with the public interest.

4. **HRPA is free to do whatever else it wants to do as long as it does what it is required to do by the Act.**

The idea here is that the Act can be seen as setting up some kind of checklist of ‘must dos,’ and that once HRPA has placed a check in each of the boxes, it is free to do whatever else it wants to do. HRPA is empowered to carry out its objects, but no more. Like all not-for-profit corporations, HRPA does not have sanction to operate outside the scope of its objects. Specifically, section 3(3) of the Act states: “For the purpose of carrying out its objects, the Association has the capacity and the rights, powers and privileges of a natural person.” What this means is that the Association does not have the capacity and the rights, powers and privileges of a natural person for any other purpose but to carry out its objects. The capacity and the rights, powers and privileges of a natural person refer to the right to own property, the right to enter into contracts (including employment contracts), and the right to sue and be sued. It can be seen that HRPA doesn’t exist outside the ambit of its objects. Thinking of the Act as a checklist is not correct; the Act gives HRPA a mission and mandate and it is difficult to think that HRPA would ever get to the bottom of its mandate. But even if HRPA were ever to be in a
position where it could say that it has exhausted the objects in the Act, it would still not be permitted to act outside the boundaries of its objects.

5. **The key is to find the right balance between the interests of the public and the interests of the members.**

There are two issues with this statement: (1) as noted above, HRPA does not have a mandate to serve the interests of its members, and (2) the Objects of the Association should not be understood as making trade-offs between competing interests. An important principle in statutory interpretation is the principle of coherence. The idea is that the Objects should be given a harmonious interpretation, meaning that any interpretation of an object that causes it to clash with another object is not the correct interpretation of that object. Rather than pitting one object against another, the correct interpretation of the objects is the one that leads to a harmonious interpretation of the Objects. Of course, there are still decisions to be made about what is the best approach to fulfilling the Objects, but it is not about balancing the interests of the public with the interests of the members.