#61 What is HRPA?

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Let’s cut to the chase, HRPA is a voluntary self-regulating statutory not-for-profit corporation. Each of these terms refers to an important facet as to what HRPA is.

HRPA is a corporation. It is a legal entity which is separate from its members.

HRPA is a not-for-profit corporation. This is more than just a tax status. One of the differences between for-profit and not-for-profit is that the objects not-for-profit corporations do not include creating wealth for shareholders. Not-for-profit corporations must state their objects in their articles of incorporation, whereas for-profit corporations do not. This is important because not-for-profit corporations are bound by their objects, meaning that they cannot carry out activities which fall outside the scope of their objects. HRPA cannot act outside the ambit of its objects. In fact, HRPA does not have the powers of a natural person for any purpose other than to carry out its objects. As a category, not-for-profit corporations includes a variety of organizations that have very little in common other than the fact that
they are not-for-profit corporations (religious groups, sport and social clubs, government-funded public services, fundraising associations, international aid organizations, public service organizations, public institutions, foundations, etc.).

Of all not-for-profit corporations, relatively few are statutory. Statutory not-for-profit corporations are created by an act of the Legislature rather than having been incorporated under a corporation act. HRPA is a not-for-profit corporation created by an act of the Legislature and its articles of incorporation are embedded in the Registered Human Resources Professionals Act, 2013. There are a few implications of this. For one, some of the governance arrangements common among not-for-profit corporations do not necessarily apply to statutory not-for-profit corporation as any provisions in the home legislation would override other corporation legislation where these differ. Another important implication is that the mission and mandate of a statutory corporation are set by the Legislature. As such, HRPA cannot add to, subtract from, or modify its objects—only the Ontario Legislature can do this by statute. As a creature of statute, HRPA is accountable to the Ontario Legislature. A statute is required because of the delegation of governmental powers of regulation. Along with this delegation of governmental powers of regulation by statute comes a public protection mandate. The Legislature would not delegate regulatory powers to any entity unless this entity agrees to exercise these powers to promote and protect the public interest.

Statutory not-for-profit corporations can be created for a number of purposes, professional regulation is one such purpose. HRPA is a statutory not-for-profit corporation created by the Legislature for the purpose of governing and regulating the practice of members, students, and firms in the public interest.

HRPA is a statutory self-regulating not-for-profit corporation. The ‘self’ part is important. The most common approach to the regulation of professions in Canada is self-regulation. This means that the regulatory mandate and the regulatory powers needed to fulfil this mandate are delegated to an entity comprised of members of the profession. Although this is the most common approach to the regulation of professions in Canada, it is not the only approach; some occupations/professions are regulated directly by a government ministry or agency. The essential difference is that in these direct forms of regulation, the members of the profession have much less autonomy in regards to the regulation of their profession. The advantage of self-regulation is that members of a profession are able to call upon a deep knowledge of the profession in service of the public. The disadvantage of self-regulation is that it is an arrangement that is prone to regulatory capture. Indeed, unless a professional regulatory body is vigilant in regards to keeping focused on the promotion and protection of the public, it is easy for a self-regulating body to drift towards serving the interests of the members of the profession instead of serving the interests of the public.

Finally, HRPA is a voluntary self-regulating statutory not-for-profit corporation. In many cases, professions are licensed meaning that one needs to be a member of the professional regulatory body to practice the profession or to perform specific protected acts related to the practice of the profession. Although all licensed professions are regulated, not all regulated professions are licensed. When there is no licensure, it is said that a profession is voluntary. Being voluntary changes the dynamic of the profession. However, just because a profession is voluntary does not mean that the professional regulatory body can tone down its regulatory activities. In fact, the duty to govern and regulate the profession in the public interest is exactly the same whether a profession is licensed or voluntary.

There you have it—HRPA is a voluntary self-regulating statutory not-for-profit corporation.