

REGULATORY AFFAIRS

HUMAN RESOURCES PROFESSIONALS ASSOCIATION

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From HRPAs Office of the Registrar:

The Human Resources Professionals Association (HRPA) is the professional regulatory body for Human Resources professionals in Ontario. *Regulatory Affairs* is HRPAs quarterly publication focusing on the legal, regulatory, governance, and ethical aspects of the profession. *Regulatory Affairs* includes all regulatory notices including summaries of complaints and discipline proceedings. *Regulatory Affairs* is distributed to all members and students registered with HRPAs.

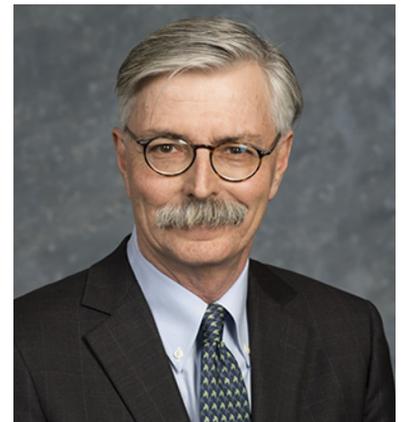
Message from the Registrar

Is the disclosure of discipline proceedings outcomes *public shaming*?

As you may know, this newsletter will publish the outcomes of hearings held by HRPAs Discipline Committee including the names of registrants found guilty of professional misconduct.

In response to an open-ended question on the recent HRPAs Member and Student Survey, one registrant was critical of HRPAs for publishing the names of two registrants found guilty of professional misconduct. The commentator noted that the public and the profession were not better off for having been made aware of this information and that it had been in very poor taste for HRPAs to publish it. The commentator noted that the individual would likely not have registered with HRPAs if they had known that HRPAs would publish the outcomes of discipline proceedings.

Interestingly, the position of our commentator seems to go against prevailing public sentiment. Rather than being criticized for putting too much information in the public domain, professional regulators have come under strong criticism for a lack of transparency in dealing with discipline matters. Professional regulators have come under pressure to publish increasingly more information about professionals who have been the subject of complaints and discipline proceedings.



Message from the Registrar cont'd

There are two arguments here: (1) that the public is entitled to know important information about the professionals who serve them including whether a professional had been found guilty of professional misconduct, and (2) that transparency in discipline proceedings promotes public confidence in the work of the professional regulator. In other words, HRPAs would be seriously out of step with current practice were it not to publish the outcomes of disciplinary proceedings including the name of those registrants found guilty of professional misconduct.

Discipline proceedings are serious matters indeed. Although established and supported by HRPAs, HRPAs's Discipline Committee is independent of HRPAs in its decision-making and it derives its powers directly from the *Registered Human Resources Professionals Act, 2013*. HRPAs's Discipline Committee is an administrative tribunal, on par with other administrative tribunals such as the Ontario Human Rights Tribunal. Hearings held by HRPAs's Discipline Committee are subject to the *Statutory Powers Procedure Act, 1990 (SPPA)*.

The decisions of HRPAs's Discipline Committee may be appealed to HRPAs's Appeal Committee and, ultimately, to the Ontario Divisional Court which is a branch of the Ontario Superior Court. As required by the SPPA, hearings held by HRPAs's Discipline Committee are public in all but exceptional circumstances.

It is not a staff decision to refer a matter to the Discipline Committee - such referrals are made by the Complaints Committee. The Complaints Committee, for its part, is required by law to review all complaints regarding the conduct of a professional registered with HRPAs. The Complaints Committee does not determine guilt but decides the appropriate course of action in any given case including whether a referral should be made to the Discipline Committee. The Complaints Committee makes the decision to refer a matter to the Discipline Committee based on three criteria:

1. Were the allegations to be true, would the matter be serious enough to warrant discipline?
2. Is there sufficient evidence to support the case?
3. Is it in the public interest to proceed?

Summaries of the allegations in complaints reviewed by the Complaints Committee, as well as the disposition of the complaints, are published on HRPAs's website and HRPAs's quarterly Registrar's Report, but the identities of the parties are not published.

Once a referral is made to the Discipline Committee by the Complaints Committee, the matter becomes public with the publication of the Notice of Hearing. The rules governing the publication of information pertaining to discipline and review proceedings are set out in Section 21 of HRPAs's By-laws.

So, what about the privacy rights of professionals under regulation? The courts have stated that the right of the public to know important information about the professionals who serve them will outweigh the professionals right to privacy. Indeed, the courts have argued that being a professional is a privilege, and that a loss of certain privacy rights is part of what goes with that privilege. The fact that one's name would be made public if one were found guilty of professional misconduct is just another aspect of being a professional.

HRPAs takes no pleasure in publishing the names of registrants who have been found guilty of professional misconduct—it is just part of what it means to be a professional regulatory body for a true regulated profession.

Claude Balthazard, Ph.D., C.Psych., CHRL
Registrar and VP Regulation

Discipline Matters

There were no new referrals to the Discipline Committee since the last Regulatory Affairs newsletter was issued (May 2019).

To read full decisions of the Discipline Committee, please visit our [Current & Past Discipline Proceedings](#) section of



Summary of Complaints

There were three open complaints prior to the start of 2019. Two of the three complaints from 2018 were disposed of in April and May 2019, and one has yet to be disposed as a third party investigation has been conducted and must be reviewed by a panel of the committee to make a decision.

Since May 2019, two new complaints have been filed. Details for each case can be found below:

Case	Date complaint filed	Nature of allegations	Date of disposition of complaint and decision of Complaints Committee
C-2019-8	May 27, 2019	It is alleged that the member: 1) breached the rules of professional conduct by commenting on an employee's emotional/mental health during a meeting; 2) lied to employees in the interest of protecting her position; 3) wrongfully dismissed an employee; 4) shared confidential information with other staff members pertaining to that employee.	
C-2019-9	May 29, 2019	It is alleged that the member: 1) breached the rules of professional conduct by asking an employee to withdraw a complaint with the Ministry of Labour; 2) attempted to induce or bribe this individual with money to withdraw the complaint on employee misclassification; 3) threatened the employee with unsolicited and false tax advice stating that this person would need to pay money to the government.	

Annual Meeting: Recording Available Online

On May 30, 2019, HRPAs held our Annual Meeting (AM) and presented our Annual Report, our revised By-laws, appointed our auditors, and opened the floor to questions from voting members. The AM was well-attended both in person and online, and as always, it was wonderful to have the opportunity to meet with so many of our members, receive feedback, and celebrate the accomplishments of the past year. Although participation is limited to designated members, the video recording is available to all members and students and can be [viewed online](#).

Our [2018 Annual Report](#) is also now available online. It may seem like just a collection of numbers and a list of accomplishments, but really, it is a snapshot of all that you helped us accomplish and all the work you did as our invaluable members, students and volunteers.

If you have any questions please contact the office of the registrar at registrar@hrpa.ca



New Requirements for the CHRL Designation

Over the past year, HRPAs has been communicating to members and students that the CHRL designation framework will be changing and that additional requirements will be implemented. These include the following:

- Professional Program
- Final Performance Exam
- Supervisory Experience

HRPA is currently in the process of developing these requirements and will be notifying members and students once more information becomes available. Ample notice will be provided to members and students, so the implementation of these requirements will not come as a surprise. HRPAs will communicate the new requirements by email, and will update the information on our website and in our Regulatory Affairs newsletter.

To view the current requirements for the CHRL designation, please visit [HRPA's website](#).

Stay tuned for more information!

CHRP and CHRL Employment Law Exam Registration

Registration for the September 2019 CHRP and CHRL Employment Law Exams is now open. The registration fee is \$225.00 plus HST.

- The CHRP Employment Law Exam testing window is September 9 to September 23, 2019
- The CHRL Employment Law Exam testing window is September 16 to September 30, 2019

Challenge Exam Registration for September 2019

Registration for the September 2019 Challenge Examinations is now open. **Challenge Exams are held three times per year in January, May and September.** A maximum of three subjects can be written per sitting.

The Challenge Examinations are an alternative to completing specific course requirements. These examinations are designed to assess an applicant's academic currency in an individual subject area, and are similar to a final examination in the subject. They enable an applicant to achieve credit in a required subject area without having to retake a course. A grade of 65% or more is required to pass a Challenge Exam.



Do You Practice HR Independently? A Guide to Professional Liability Insurance

All registrants of HRP who provide HR services as independent practitioners, whether on a full-time, part-time, infrequent or on a volunteer basis, are required to carry professional liability insurance in accordance with the By-laws. This obligation applies to registrants who may only perform very occasional consulting work, even if that consulting work is done without any payment or compensation. **If you practice HR independently, you must submit proof of liability insurance to the HRP.**

Professional liability insurance is intended to cover claims made against a professional person for the losses suffered by a third party because of the failure on the part of the professional to meet the expected standards of performance of the professional's services. This type of insurance is also called 'malpractice liability' or 'errors and omissions' insurance. The terms are generally regarded as synonymous by the insurance industry.

The reason HRP requires its registrants in independent practice to carry professional liability insurance is because it is in the public interest to do so. But in this case it is also in the registrant's interest to carry professional liability insurance. All professionals in independent practice have some exposure to claims of liability, whether these claims are ultimately found to be groundless or not. The cost of defending oneself against such claims, let alone the cost of any settlement, can be devastating to independent practitioners.

If you practice HR independently but have not yet notified HRP, please submit a scanned copy of your insurance/certificate information, along with a completed [Professional Liability Insurance form](#) to HRP at registrar@hrpa.ca.

Why Do We Have to Fill Out a Form to Resign?

When one no longer wishes to get a magazine, one just stops paying and eventually the magazine stops coming. Being registered with a professional regulatory body is not the same as subscribing to a magazine. The reason for requiring registrants to formally resign from the Association is that dropping one's registration with HRP A can have significant consequences. The purpose of the resignation form is to ensure that registrants are aware of the potential consequences of dropping their registration with HRP A.

The HRP A Designation Reinstatement and Re-achievement Policy states:

“Former members whose membership was revoked for non-payment of dues or who resigned their membership may rejoin at a later date by submitting a new application for membership. If the former member wishes to earn back a designation previously granted by HRP A, they must meet the designation requirements in place at the time they rejoin the Association. Any requirements previously met that are still valid do not need to be repeated.”



This means that any previous grandfathering disappears as former registrants must meet the designation requirements in place at the time they rejoin the Association. Also, if any exam or coursework is more than 10 years old, these requirements will need to be repeated.

HRP A cannot assume that an individual no longer wants to be registered with HRP A just because he or she has failed to pay their dues. This explains (1) why HRP A requires individuals to fill out a form to resign their registration with HRP A; and (2) why HRP A goes through a formal sequence of notice of impending suspension, suspension with notice of impending revocation, and notice of revocation.

The reason for both is the same to ensure that (1) individuals are making a conscious and informed decision in terminating their registration or, alternately, (2) that the former registrant was given ample opportunity to stop the revocation process.

What is important here is that any member or student who wishes to resign must indicate that he or she fully understand the implications of their resignation. A simple email or voicemail saying 'I want to resign' does not do that. The resignation form is designed to make the process simple and straightforward.

Another aspect of resignation is that the public register will indicate that the member or student has resigned as opposed to having been revoked due to non-payment of dues. Suspensions and revocations for non-payment of dues are recorded as such in the Public Register. Also, once these events are recorded in the Public Register, they cannot be removed retroactively. The simple way of avoiding having the Public Register indicate that one was revoked for non-payment of dues is to duly resign.

Feedback Regarding this Newsletter?

If you have any questions, comments or suggestions for future publications, please let us know!

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