

than ever to work in a positive, meaningful environment. Without giving them a good culture, it will be impossible to keep them, no matter how much you pay.

Next month I'll focus on the qualities that form a good culture and how to develop those.



**Dr. Karen Felsted** is a CPA as well as a veterinarian and has spent the last 20 years working as a financial and operational consultant to veterinary practices and the animal health industry. She is active in multiple veterinary organizations, has written

an extensive number of articles for a wide range of veterinary publications and speaks regularly at national and international veterinary meetings. In 2011 and 2017, she was awarded the Western Veterinary Conference Practice Management Continuing Educator of the Year, and, in 2014, the VetPartners Distinguished Life Member Award.

## COLUMN

### Pending legislative and regulatory update

# Telemedicine does not violate federal law

**The veterinarian-client-patient relationship can be established electronically.**

By Mark Cushing

The veterinary profession and animal health industry are divided about the value of telemedicine, and—with too much fervor—about the merits of a telemedicine VCPR, or veterinarian-client-patient relationship. (It would be a good idea for all of us to catch a breath and explore solutions that could unite a significant majority of interested stakeholders. But more on that in a future Fountain Report.)

Here I'd like to clear up one topic of apparent confusion. Just this week in a state legislative hearing, trade association representatives declared—or warned—legislators that federal law “does not allow an establishment of a VCPR by electronic means only.”

That's a bold statement and, if true, sure to grab the attention of an elected official.

But it's not true, and the debate about telemedicine would be more

productive if this false claim isn't repeated. Here's the law:

In 1994, Congress passed AMDUCA—the Animal Medicinal Drug Use Clarification Act—and delegated enforcement authority and rulemaking to the FDA. The FDA passed administrative rules implementing AMDUCA, one of which required that practicing veterinarians may only prescribe extra-label drugs if they have an in-person VCPR in place with the client and patient.

Another rule in 2015 required the same VCPR for a veterinary feed directive for food animals. This made sense and, of course, at the time there was no discussion of a telemedicine VCPR. It's not as though the FDA made a choice.

But the agency never proclaimed or even hinted that the practice of telemedicine or the use of a telemedicine VCPR (now legal in six states) was illegal. Neither Congress nor the FDA appointed the FDA as the

governor of VCPR laws in all 50 states. The FDA simply passed a rule saying a prescription of an extra-label drug or veterinary animal feed directive requires an in-person VCPR. That's all.

It doesn't help legislators or veterinarians understand an issue by declaring that certain conduct “violates federal law” when it's plainly not the case. A veterinarian may practice telemedicine to their heart's delight, in compliance with the state veterinary practice act and state veterinary medical board rules, without violating federal law.

The trade association witnesses should know better. And the veterinary profession and animal health industry deserve better.



**Mark Cushing** is the founder and managing partner of the Animal Policy Group LLC, based in Scottsdale, Arizona; Portland, Oregon; and Los Angeles.

He's a frequent speaker at veterinary medicine and other animal policy conferences. Mark is a former partner of major regional and national law firms and served as an adjunct professor of law at the Lincoln Memorial University Duncan School of Law in Knoxville, Lewis & Clark Law School in Portland and the University of Oregon School of Law. Most recently, he's the author of “Pet Nation,” a book released by Penguin Random House that illustrates an inside look at the forces behind how our pets transformed American society and culture. Mark can be reached at [mark@animalpolicygroup.com](mailto:mark@animalpolicygroup.com).

BY THE NUMBERS

# Vet Watch

The Vet Watch Weekly Insight Report offers weekly insights on revenue growth, vaccine purchases and other metrics reported across the more than 32,000 practices and shelters in the Animalytix Marketplace.

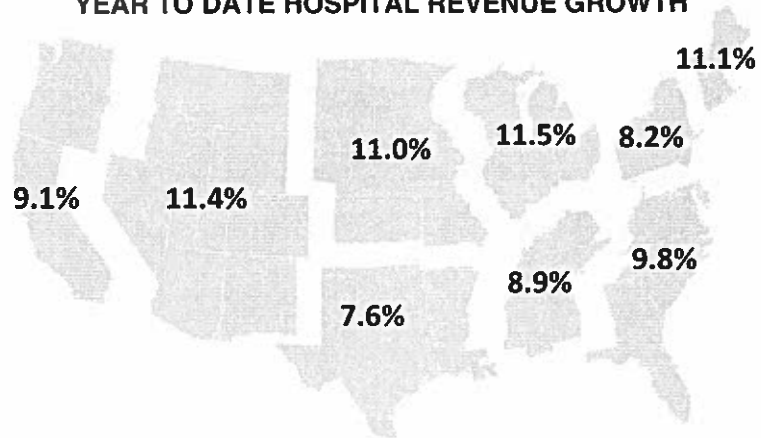
Metrics are compiled by Tim Witt, commercial director at Animalytix/DVMetrics.

Full commentary for the week is available at [vetwatch.com](http://vetwatch.com).

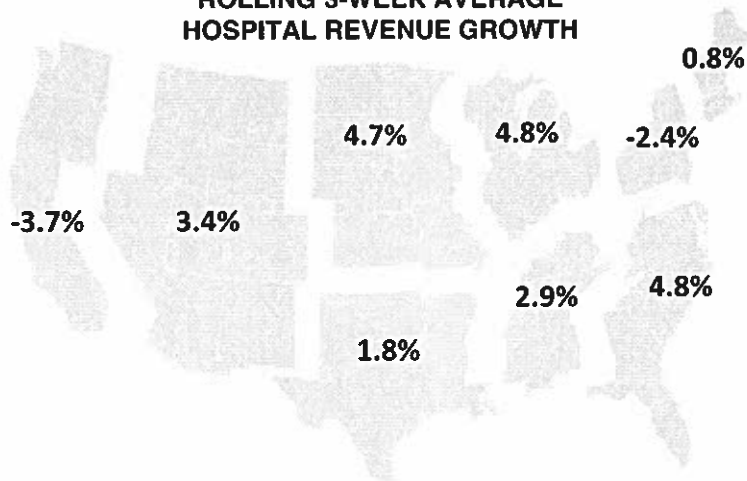
## Key findings for the week ending November 6, 2021

- > Revenue growth was steady at 9.6% year-to-date net growth versus revenue for the comparable period last year at the roughly 4,000 reporting practices. Reported growth was notable in the East North Central division at 11.5% year-to-date, up 0.4% from the prior week's position.
- > Purchases of surgical suite consumables, which serve as a proxy for incidence of surgical procedures, were up 0.1% from the prior week at 12.5% growth year-to-date.
- > Core and lifestyle canine and feline vaccine practice purchasing improved 0.4% from the prior week at 14.7% growth year-to-date. Annual core and lifestyle vaccine purchases were selected as the principal metric given 50% or more of annual visits to a veterinary practice are associated with administration of these products.
- > Growth in kennel cough vaccine purchases, which provides a measure of pet mobility, moved up for the week to 14.1%, reflecting a 0.3% increase versus the prior week.
- > Parasiticide purchases were up 0.1% from the prior week and

### YEAR TO DATE HOSPITAL REVENUE GROWTH



### ROLLING 3-WEEK AVERAGE HOSPITAL REVENUE GROWTH



robust at 13.2% growth year-to-date.

- > Rolling three-week average revenue growth across all divisions moved up for the week and into the positive at 2.6%. Seven divisions ended positive, with five divisions showing positive movement over the prior

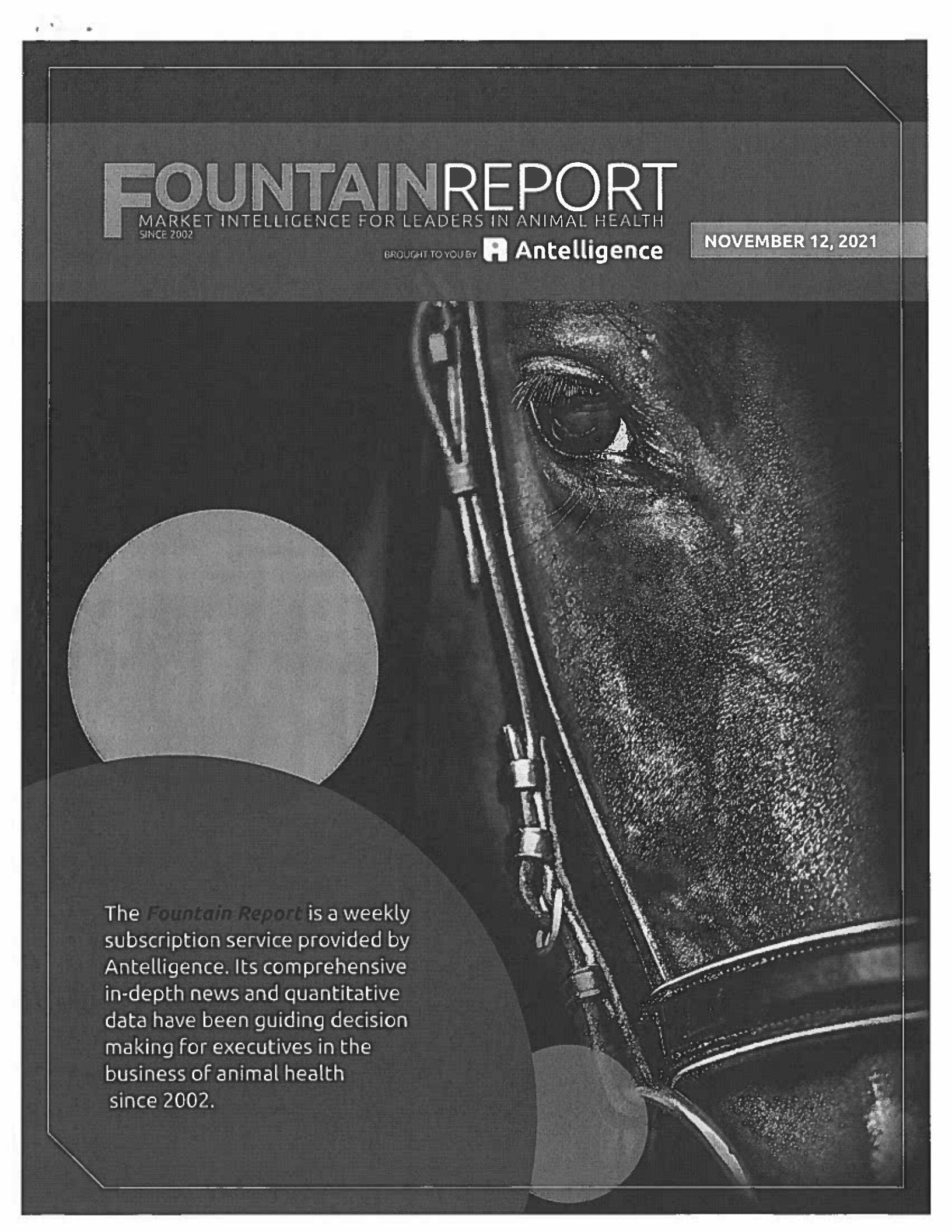
week. The Mountain division was notable at 6% growth, up 2.6% from the prior week. This metric is designed to provide a view of relative robustness of growth trends (e.g., market velocity) for each reporting zone. A positive value indicates rolling revenue growth versus the prior year reported three-week period.

# FOUNTAINREPORT

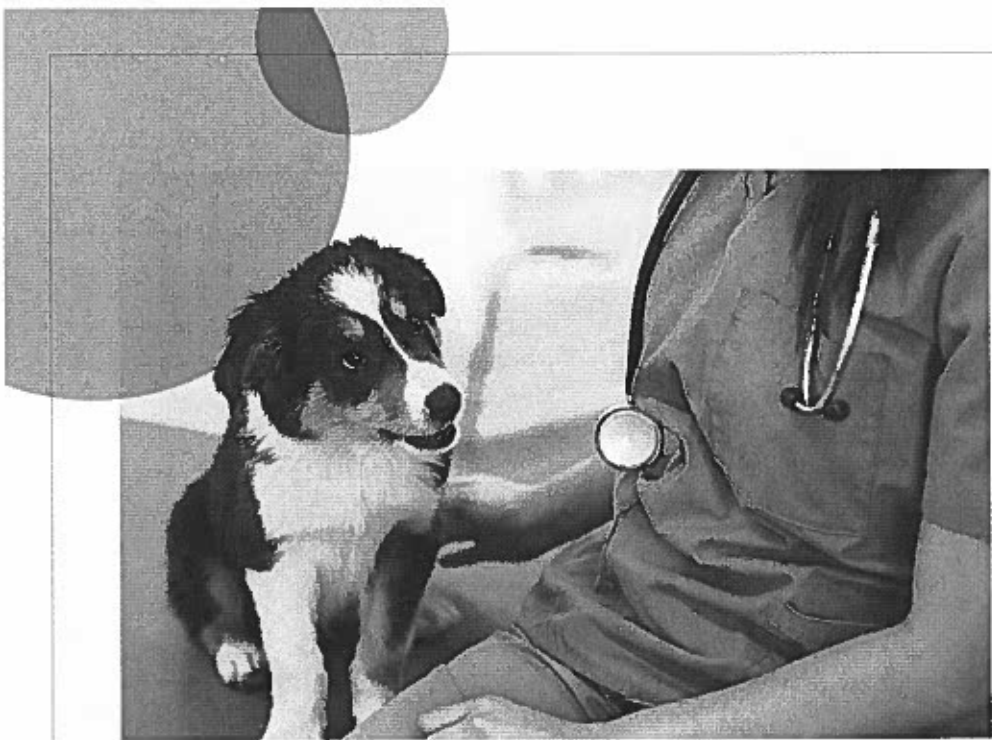
MARKET INTELLIGENCE FOR LEADERS IN ANIMAL HEALTH  
SINCE 2002

BROUGHT TO YOU BY  Antelligence

NOVEMBER 12, 2021



The *Fountain Report* is a weekly subscription service provided by Antelligence. Its comprehensive in-depth news and quantitative data have been guiding decision making for executives in the business of animal health since 2002.



**STAFF**

David Thill  
Editor & Technology  
Project Management  
[david.thill@antelligence.com](mailto:david.thill@antelligence.com)

Duane Thurman  
Co-Founder, Finance & News  
[dentrexinc@aol.com](mailto:dentrexinc@aol.com)

Shannon Kelly  
Subscription Sales  
& Educational Coordinator  
[shannon.kelly@antelligence.com](mailto:shannon.kelly@antelligence.com)

Brent Cashman  
Art Director  
[brent@bocdesigninc.com](mailto:brent@bocdesigninc.com)

Terry Sheehan  
Commentary & Insights  
[tsheehan@axxiomconsulting.com](mailto:tsheehan@axxiomconsulting.com)

Chris Kelly  
Managing Partner & Publisher  
(770) 335-5445  
[chris.kelly@antelligence.com](mailto:chris.kelly@antelligence.com)

**COLUMNISTS**  
Mark Cushing, Animal Policy Group  
David Sprinkle, Packaged Facts  
Ali McIntyre, VVCA  
Stacy Pursell, The VET Recruiter,  
Therio Partners

**DATA PROVIDERS**  
American Pet Products Association  
Animalytix  
Guggenheim Partners  
Packaged Facts  
VetWatch

› **Not a Subscriber:**  
[click here to subscribe](#)

# CONTENTS

**QUICK LINKS**

- › Company Activity
- › General Industry, Public Policy and Politics
- › Companion Animal Market
- › Food Animal Market

**THE INNOVATION SPOTLIGHT TALKATOO**

**NATIONAL PET OWNERS SURVEY WHERE DO PET OWNERS GO FOR CARE ADVICE?**

**COLUMN**

**BE A PLACE PEOPLE WANT TO WORK**

**COLUMN**

**TELEMEDICINE DOES NOT VIOLATE FEDERAL LAW**

**BY THE NUMBERS**

**VET WATCH UPDATE**

**COMPANY PERFORMANCE AND ACTIVITIES**

**FINANCE**

- › Deal Tracker
- › Stock Tracker

**NEWS**

**SECTION 1.0 COMPANY ACTIVITY**

**SECTION 2.0 GENERAL INDUSTRY, PUBLIC POLICY & POLITICS**

**SECTION 3.0 COMPANION ANIMAL MARKET**

**SECTION 4.0 FOOD ANIMAL MARKET**